

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AXIOM INVESTMENT ADVISORS, LLC, by  
and through its Trustee, Gildor Management,  
LLC, and AXIOM INVESTMENT  
COMPANY, LLC, by and through its Trustee,  
Gildor Management, LLC,

Plaintiffs,

vs.

DEUTSCHE BANK AG,

Defendant.

Case No. 15-cv-09945 (LGS)

**DECLARATION OF GEORGE A. ZELCS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION PURSUANT  
TO FEDERAL RULE OF CIVIL PROCEDURE 23**

I, George A. Zelcs, declare as follows:

1. I am a partner at the law firm of Korein Tillery, LLC, and I have been actively involved in prosecuting this action. I submit this declaration in support of Plaintiffs' Motion for Class Certification Pursuant to Federal Rule of Civil Procedure 23. I am personally familiar with the facts set forth in this declaration. If called as a witness, I could and would competently testify to the matters stated herein.

2. Korein Tillery, along with Scott+Scott, Attorneys at Law, LLP; Hausfeld LLP; and Nussbaum Law Group, P.C. (collectively "Plaintiffs' counsel"), represents Plaintiffs in this case. Plaintiffs' counsel filed this action on December 21, 2015 after around 18 months of investigation.

3. The pre-suit investigation began as early as March 2014 when certain members of Plaintiffs' counsel were investigating the FX market as part of their prosecution of the claims asserted in *In re Benchmark Rates Antitrust Litig.*, No. 13-cv-7789 (S.D.N.Y.). In the course of those

investigations, Plaintiffs' counsel uncovered a pattern of high reject rates and low fill rates of purportedly executable trades by banks on electronic FX trading platforms. Plaintiffs' counsel's investigation turned to determining the scope of this behavior, including whether the practice was used by Deutsche Bank. Counsel interviewed numerous FX traders and market experts and examined publicly available documentation to determine whether the practice was disclosed.

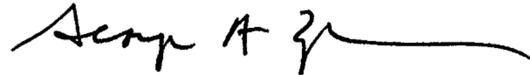
4. Since filing this lawsuit, Plaintiffs' counsel has devoted significant resources and attorney time to litigating virtually all aspects of this case. In addition to opposing Deutsche Bank's unsuccessful motion to dismiss, Korein Tillery has conducted extensive discovery, including taking and defending 17 depositions in multiple countries and reviewing nearly 354,000 documents produced. Korein Tillery has also interviewed and hired experts to assist with the prosecution of this case.

5. Plaintiffs' counsel represents Plaintiffs in a similar action against Barclays Bank PLC and Barclays Capital that was filed in this Court on November 25, 2015 (Case No. 14-cv-9323-LGS). Plaintiffs' counsel negotiated a class action settlement with Barclays that was executed on February 10, 2016, within which Barclays agreed to pay \$50 million to settle the case. Barclays has also entered into a Consent Order with the New York Department of Financial Services, agreeing to pay a \$150 million civil penalty for its practices related to Last Look.

6. Korein Tillery and Scott+Scott have considerable experience litigating complex litigations and class action lawsuits. Korein Tillery has been appointed as class counsel in more than fifty class actions. Attached hereto as Exhibit A is a true and accurate copy of Korein Tillery's résumé, which more significantly highlights the firm's achievements, experience as class counsel, and biographies of many of the firm's attorneys working on the case. Attached hereto as Exhibit B is a true and accurate copy of Scott+Scott, Attorneys at Law, LLP's résumé, which also highlights that

firm's achievements, experience as class counsel, and biographies of many of the firm's attorneys working on the case.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on January 15, 2018.

A handwritten signature in black ink, appearing to read "George A. Zelcs", followed by a long horizontal flourish.

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George A. Zelcs

# Exhibit A

## KOREIN TILLERY

*Attorneys at Law*

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Korein Tillery — based in Chicago and St. Louis — is one of the country’s leading plaintiffs’ complex-litigation firms, representing a broad array of clients in high-stakes lawsuits. We bridge the historical divide between the resources, quality-of-representation, and national coverage offered by large, full-service law firms and the creativity, agility, and financial flexibility offered by boutique litigation practices. By providing world-class legal representation within a business environment more reminiscent of a Silicon Valley startup than a traditional law firm, Korein Tillery offers clients a superior, cost-effective way to manage substantial litigation risk.

Although Korein Tillery is a boutique firm, our 30 attorneys offer clients an unmatched breadth of experience. Most of our attorneys have represented both plaintiffs and defendants at some point in their careers, and, combined, we’ve handled cases covering virtually every conceivable substantive area of the law. We’ve litigated cases for clients ranging from individuals and certified classes, to governmental entities and billion-dollar, multi-national corporations. Collectively, we’ve tried hundreds of cases to verdict, with several verdicts exceeding 10 figures. Our attorneys have been nominated for numerous regional and national trial lawyer awards, and we’ve won many landmark decisions in state and federal appellate courts, including in the Supreme Court of the United States. Korein Tillery strives to be the nation’s leading complex litigation boutique law firm by offering our clients world-class representation while drastically reducing their litigation-related risk.

For decades, Korein Tillery has successfully guided its clients through protracted, multi-faceted litigation against some of the most powerful and well-funded adversaries in the world. Our firm consistently prevails in legal wars of attrition, not only because we have the resources to prosecute claims as vigorously as they are defended, but also because we have the experience, mettle, and motivation to go the distance. We’re no strangers to decade-long cases, multi-million-document productions, endless discovery battles, and repeated trips to the appellate courts. And our results speak for themselves: we’ve obtained billions of dollars in settlements and verdicts for our clients over the past decade, all without submitting an “hourly” bill.

Though Korein Tillery’s national litigation practice has continued to evolve and adapt over the past decade, one thing has remained constant — we have achieved extraordinary results for our clients. The cases we handle

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are some of the most complex and challenging in the country. Yet despite often-daunting odds, Korein Tillery has amassed one landmark victory after another, generating over \$13 billion in verdicts and settlements in litigation spanning practice areas such as Securities, ERISA, Antitrust, Tax, Environmental Law, and Unfair Competition. Some of Korein Tillery's recent accomplishments are noted below.

The National Law Journal has consistently deemed Korein Tillery to be one of the country's top plaintiffs' firms by naming it to its "Plaintiffs' Hot List" seven times in the past eleven years: in 2003, 2004, 2007, 2008, 2011, 2012, and 2013. In 2014 and 2015, Korein Tillery was named by the NLJ as a member of its top 50 Elite Trial Lawyers. The American Bar Association's Securities Litigation Journal deemed two of Korein Tillery's cases, *Kircher v. Putnam Funds Trust*, 547 U.S. 633 (2006) and *Merrill Lynch Pierce Fenner & Smith, Inc. v. Dabit*, 547 U.S. 71 (2006), the two most important securities law decisions in 2006. Securities Litigation Journal, *Top 10 Securities Law Decisions of 2006* (Winter 2006). In *Kircher*, Korein Tillery served as lead counsel for the plaintiffs' class from the initial trial court filing to the Supreme Court of the United States, where the Court reversed the Seventh Circuit in a 9-0 decision.

Korein Tillery has been appointed as class counsel in more than fifty class actions<sup>1</sup> and has successfully negotiated some of the country's largest class action settlements. *See, e.g., Parker*

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<sup>1</sup> *See, e.g., Asbury v. May Dep't Store Co. Ret. Plan*, No. 97-667-GPM (S.D. Ill. May 3, 1999); *Barbara's Sales Inc. v. Intel Corp.*, 2004 WL 5723558 (Ill. Cir. July 12, 2004); *Berger v. Xerox Corp. Ret. Income Guar. Plan*, No. 00-584-DRH (S.D. Ill. Dec. 5, 2003); *Berkowitz v. Nat'l Westminster Bancorp Ret. Plan*, 2000 WL 852451 (D. Conn. Mar. 30, 2000); *Brentwood Travel Serv., Inc. v. DCT Enter.*, No. 03CC-2857 (Mo. Cir. Ct. June 13, 2007); *Call v. Ameritech Mgmt. Pension Plan*, No. 01-717-GPM (S.D. Ill. Aug. 26, 2003); *Chultem v. Tigor Title Ins. Co.*, 927 N.E.2d 289 (Ill. App. Ct. 2010); *City of Univ. City, Mo. v. AT&T Wireless Servs., Inc.*, No. 01-CC-004454 (Mo. Cir. Ct. Aug. 30, 2007); *Clevenger v. Dillard's, Inc.*, No. 02-558 (S.D. Ohio Nov. 31, 2006); *Clutts v. Allstate Ins. Co.*, No. 02-L-226 (Ill. Cir. Dec. 6, 2005); *Collora v. R.J. Reynolds Tobacco Co.*, 2003 WL 23139377 (Mo. Cir. Ct. Dec. 31, 2003); *Cooper v. The IBM Pers. Pension Plan*, No. 99-829 GPM (S.D. Ill. May 19 2005); *Craft v. Philip Morris, Inc.*, 2003 WL 23355745 (Mo. Cir. Ct. Dec. 31, 2003); *Crockett v. U.S. Sales Corp.*, No. 98-L-1057 (Ill. Cir. Apr. 5, 2000); *Dunn v. BOC Group Pension Plan*, No. 01-CV-382-DRH (S.D. Ill. Dec. 11, 2003); *Esden v. Bk. of Boston*, 182 F.R.D. 432 (D. Vt. Sept. 28, 1998); *Folkerts v. Ill. Bell Tel. Co.*, No. 95-L-912 (Ill. Cir. Jan. 7, 1998); *Fun Serv. of Kan. City, Inc. v. AMF Bowling, Inc.*, No. 03-DV-203690 (Mo. Cir. Ct. Apr. 22, 2005); *Gans v. Leiserv, Inc.*, No. 02CC-002115 (Mo. Cir. Ct. Oct. 6, 2004); *Gans v. Seventeen Motors, Inc.*, No. 01-L-478 (Ill. Cir. July 1, 2002); *Graf v. Automatic Data Processing*, No. 00-694-GPM (S.D. Ill. June 18, 2001); *Harris v. Roto-Rooter Servs. Co.*, No. 00-L-525 (Ill. Cir. Nov. 17, 2005); *Howard v. Brown & Williamson Tobacco Co.*, 2001 WL 1910779 (Ill. Cir. Dec. 18, 2001); *Hoormann v. SmithKline Beecham Corp.*, 2006 WL 3869484 (Ill. Cir. Oct. 6, 2006); *Hoyleton Youth & Family Servs. v. Surrey Vacation Resorts, Inc.*, No. 03-L-0507 (Ill. Cir. Mar. 18, 2011); *In Re: MCI Non-Subscriber Tel. Rates Litig.*, No. MDL 1275 (S.D. Ill. Jan. 12 2001); *JC Hauling v. Capital Assoc.*, No. 02-L0425 (Ill. Cir. Feb. 9, 2005); *Joiner v. Ameritech Mobile Commc'ns*, No. 96-L-121 (Ill. Cir. Aug. 8, 2000); *Kaiser v. Cigna Corp.*, 2001 WL 36180948 (Ill. Cir. Apr. 20, 2001); *Kohl v. Am. Trial Lawyers Ass'n*, No. AW-97-3264 (D. Md. Nov. 2, 1999); *Laurenzano v. Blue Cross/Blue Shield of Mass. Ret. Income Trust*, No. 99CV11751 (D. Mass. Apr. 30, 2002); *Lawrence v. Philip Morris USA, Inc.*, No. 09-CV-519 (N.H. Nov. 22, 2010); *Little L.L.C. v. Brinker Mo., Inc.*, 2005 WL 6191055 (Mo. Cir. Ct. Sept. 23, 2005); *Malloy v. Ameritech*, No. 98-488-GPM (S.D. Ill. May 3, 2000); *Mangone v. First USA Bk., N.A.*, 2000 WL 33529651 (S.D. Ill. Nov. 21, 2000); *Mansfield v. Air Line Pilots Ass'n*, No. 06-cv-06869 (N.D. Ill. July 9, 2007); *May v. SmithKline Beecham Corp.*, No. 98-108-WDS (S.D. Ill. May 31, 2001); *Meyer v. HomeEq Servicing Corp.*, No. 05-L-208 (Ill. Cir. Nov. 16, 2011); *Medeika v. S. New Eng. Tel.*, No. 97CV01123 (D. Conn. Aug. 9, 1999); *Nichols v. B.P. Am. Pension Plan*, No. 01-C-6238 (N.D. Ill. July 15, 2002); *Nichols-Siedhoff v. Ameritech Corp.*, No. 01-L-456 (Ill. Cir. Feb. 6, 2004); *Null v. D.B. Inv., Inc.*, No. 05-L-209 (Ill. Cir. July 22, 2005); *Parker v. Sears, Roebuck & Co.*, No. 04-L-716 (Ill. Cir.

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*v. Sears Roebuck & Co.*, Case No. 04-L-716 (Ill. Cir. Ct., Jan. 16, 2008) (settlement valued at \$544.5 million); *Cooper v. The IBM Pers. Pension Plan*, 2005 WL 1981501, 35 Employee Benefits Cas. 2488 (S.D. Ill. Aug. 8, 2005) (\$325 million settlement); *Sparks v. AT&T Corp.*, 96-LM-983 (Ill. Cir. Ct. Nov. 4, 2002) (\$350 million settlement); *Sullivan v. DB Investments, Inc.*, 04-2819 (D.N.J. May 22, 2008) (\$323 million settlement); *Folkerts v. Illinois Bell Tel. Co.*, 95-L-912 (Ill. Cir. Ct. July 7, 1998) (\$252 million settlement); *Berger v. Xerox Corp. Ret. Income Guar. Plan*, 2004 WL 287902, 32 Employee Benefits Cas. 1362 (S.D. Ill. Jan. 22, 2004) (\$240 million settlement); *Malloy v. Ameritech*, 98-488-GPM (S.D. Ill. July 21, 2000) (\$180 million settlement); *City of Greenville v. Syngenta Crop Prot., Inc.*, 3:10-CV-188-JPG-PMF, 2012 WL 1948153 (S.D. Ill. May 30, 2012) (\$105 million settlement); *In Re: MCI Non-Subscriber Tel. Rates Litig.*, MDL 1275 (S.D. Ill. Apr. 19, 2001) (\$99 million settlement); and *Dunn v. BOC Group Pension Plan*, 01-CV-382-DRH (S.D. Ill. Mar. 12, 2004) (\$70 million settlement).

### **The Firm's Attorneys Contributing Significant Hours to This Case**

#### ***Stephen M. Tillery***

Stephen Tillery is the senior and founding member of the firm. With more than 35 years of trial experience, Mr. Tillery has acted as lead counsel in hundreds of complex cases at both the trial and appellate levels that have resulted in some of the largest trial verdicts and settlements in the United States.

Mr. Tillery completed his undergraduate studies at Illinois College (B.A. *magna cum laude*, Phi Beta Kappa) in 1972. Thereafter he attended Saint Louis University School of Law (J.D. *cum laude*, Order of the Woolsack, 1976). While obtaining his law degree, Mr. Tillery was a law clerk for the Honorable James L. Foreman, United States District Court for the Southern District of Illinois. Following graduation from law school, he was a law clerk to the Honorable George J. Moran, Fifth District Court of Appeals of Illinois.

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Sept. 18, 2007); *Patterson v. Nations Bk.*, No. 99-481-PER (S.D. Ill. July 29, 1999); *Peterson v. State Farm Mut. Auto. Ins. Co.*, 2000 WL 35641572 (Ill. Cir. Dec. 21, 2000); *Pierce v. Gold Kist*, No. CV-97-L-0748-5 (N.D. Ala. Aug. 11, 1997); *Prather v. Pfizer Inc.*, No. 02-L-480 (Ill. Cir. Mar. 2, 2004); *Price v. Philip Morris Inc.*, 2001 WL 34366710 (Ill. Cir. Feb. 1, 2001); *Rice v. Nat'l Steel*, No. 98-L-98 (Ill. Cir. June 30, 1999); *Richardson v. Fairchild Space & Def.*, No. 99-1867 (M.D. Pa. Oct. 9, 2001); *Rogers v. Tyson Foods, Inc.*, 2007 WL 6712021 (Ill. Cir. Aug. 17, 2007); *Seifert v. May Co. Ret. Plan*, No. 96-1028-GPM (S.D. Ill. May 3, 1999); *Shuppert v. Blair Down*, No. 00-L-223 (Ill. Cir. Feb. 18, 2004); *Sims v. Allstate Ins. Co.*, 2000 WL 35751322 (Ill. Cir. Dec. 21, 2000); *Sparks v. Lucent Tech.*, 2001 WL 36208888 (Ill. Cir. July 27, 2001); *State of Mo. v. SBC Commc'ns, Inc.*, No. 22044-02645 (Mo. Cir. Ct. Nov. 9, 2009); *Sullivan v. DeBeers, A.G.*, No. 04-2819 (D.N.J. Nov. 30, 2005); *Synfuel Tech. v. Airborne Inc.*, No. 02-CV-324-DRH (S.D. Ill. Oct. 31, 2003); *Todt v. Ameritech Corp.*, No. 97-L-1020 (Ill. Cir. Nov. 12, 1997); *Tullock v. K-Mart Corp. Employee Pension Plan*, No. 99-289-DRH (S.D. Ill. Feb. 22, 2002); *Turner v. R.J. Reynolds Tobacco Co.*, No. 00-L-113 (Ill. Cir. Nov. 14, 2001); *Vollmer v. PCH*, No. 99-434-GPM (S.D. Ill. June 30, 1999); *Wagner v. Lowe's Home Ctrs., Inc.*, No. 02-L-690 (Ill. Cir. Jan. 14, 2008); *Wheeler v. Sears, Roebuck & Co.*, No. 99-L-529 (Ill. Cir. Apr. 17, 2003); *Wilgus v. Cybersource*, No. 02-L-995 (Ill. Cir. Aug. 30, 2004); *Williams v. Am. Equity Mortgage, Inc.*, No. 05-L-207 (Ill. Cir. July 21, 2011); *Williams v. Con Agra*, No. 97-L-373 (Ill. Cir. Oct. 31, 1997); *Williams v. Rohm & Haas Pension Plan*, No. 04-78 (S.D. Ind. Nov. 21, 2004).



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Mr. Tillery is a member of the Illinois Trial Lawyers Association, where he has been one of the elected Board of Managers since 1987, and for which he has chaired and served on numerous committees. Mr. Tillery is also a member of the Illinois Bar Association, the Missouri Association of Trial Attorneys, the St. Louis Metropolitan Bar Association, the St. Clair County Bar Association, and the American Association for Justice. He serves as a board member of Public Justice. He was named *Litigation Daily's* Litigator of the Week on May 1, 2014, for successfully reinstating the trial court's \$10.1 billion verdict in *Price v. Philip Morris, Inc.*, 2014 IL App (5th) 130017, 2014 WL 1696280 (Ill. App. Ct. Apr. 29, 2014).

Mr. Tillery has written numerous legal articles and has served as lecturer, moderator, and panel member at dozens of legal seminars relating to litigation and trial practice. He was an adjunct professor at Saint Louis University School of Law for eleven years, and was Co-Director of the Advanced Trial Advocacy Program there from 1983 to 1988.

### ***George A. Zelcs***

George Zelcs focuses his practice in the areas of complex commercial litigation including securities, antitrust, consumer fraud, qui tam/whistleblower, and pharmaceutical litigation in state and federal courts. Mr. Zelcs completed his undergraduate degree at Indiana University (B.A. Political Science, Urban Planning, and Sociology) in 1976. He received his law degree at Chicago-Kent College of Law in 1979, and was admitted to practice law in Illinois in 1979. He is admitted to practice before the U.S. Court of Appeals for the Second Circuit (2013), Fifth Circuit (1999), Seventh Circuit (1980), Eighth Circuit (1996), Tenth Circuit (1982), and Eleventh Circuit (1993), the U.S. Tax Court (1984), the U.S. Court of Federal Claims (2013), the Supreme Court of the United States (2005), and the U.S. District Courts for the Northern and Southern District of Illinois.

Mr. Zelcs has conducted bench and jury trials in state and federal courts throughout the United States and has participated in arbitration proceedings in foreign venues. He has obtained settlements and judgments ranging from fifteen million to in excess of ten billion dollars for his clients in various state and federal jurisdictions throughout the United States.

Mr. Zelcs was first selected as a Leading Illinois Attorney in 1993 and as an Illinois Super Lawyer. He was selected as a Finalist in 2003 for the Trial Lawyers For Public Justice Trial Lawyer of the Year Award for his work on the *Price, et al. vs. Philip Morris USA* verdict. He serves on the Chicago-Kent Board of Overseers and as a Trustee for the Chicago-Kent Institute on the Supreme Court of the United States. He has testified, at the invitation of the New York State Assembly, regarding financial guaranty insurance and representations and warranties made by mortgage originators in mortgage-backed securities.

### ***Robert E. Litan***

Robert Litan is a partner at Korein Tillery. Dr. Litan is a nationally-renowned attorney and economist with nearly four decades of experience litigating cases, conducting economic



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research, crafting economic policy, and heading up both public and private organizations. He is a prolific writer and speaker on the subjects of economics, antitrust law, and financial regulation, as well as having testified as an expert witness in a number of high-profile lawsuits. Dr. Litan serves as Korein Tillery's senior adviser in economic and antitrust matters.

After graduating from Yale Law School, Dr. Litan litigated antitrust, administrative, and international-trade cases in Washington D.C., first with Arnold & Porter and then with Powell, Goldstein, Frazer & Murphy. In 1993, he was appointed Principal Deputy Assistant Attorney General in the Antitrust Division of the Justice Department, where he oversaw civil, non-merger antitrust litigation. In that role, Dr. Litan settled the Department's lawsuit against the Ivy League and MIT for conspiring to fix financial aid awards; oversaw the Department's first investigation into Microsoft's anti-competitive practices; oversaw the early stages of the Department's investigation of NASDAQ for fixing dealer spreads; and was the Department's liaison to the Clinton administration's working group on telecommunications policy, which was directed by the Vice President.

In 1995, Dr. Litan was appointed Associate Director of the Office of Management and Budget, where he oversaw the budgets of five cabinet-level agencies. He was later a consultant to the Department of Treasury on financial modernization and the effectiveness of the Community Reinvestment Act, co-authoring several reports on those subjects. In the early 1990s, Dr. Litan served as a Member of the Presidential-Congressional Commission on the Causes of the Savings and Loan Crisis. He has chaired two panels of two studies for the National Academy of Sciences, and has served on one other NAS Committee.

Dr. Litan has testified as an expert witness in numerous complex cases, not only in antitrust matters, but also in matters involving the regulation of financial institutions. He has held major executive positions at three organizations overseeing economic and public-policy research: Vice President and Director of Research in the Economic Studies Program at the Brookings Institution; the same position at the Kauffman Foundation; and Director of Research at Bloomberg Government, the subsidiary of Bloomberg LLP that provides analysis and data on the impact of government policies on business. He is currently on the research advisory boards of the Smith Richardson Foundation and the Committee for Economic Development, as well as the advisory board of the American Antitrust Institute. He previously served on the international advisory board of the Principal Financial Group.

Dr. Litan is the author or co-author of 27 books and the editor of 14 others. He also has written over 200 articles in journals and national newspapers. His latest books include *Better Capitalism*, co-authored with Carl Schramm (2012); and *Good Capitalism, Bad Capitalism*, co-authored with William Baumol and Carl Schramm (2007), which is used widely in college courses and has been translated into 10 languages. His latest book, published by Wiley Press in the fall of 2014, is *The Trillion Dollar Economists*.

***Robert L. King***

Robert King is a 1989 graduate of the Washington University School of Law. Upon graduation from law school, he clerked for a federal judge in Kansas City, Missouri for two years before entering private practice in 1991. In addition to the state bars of Missouri and Illinois, Mr. King is a member of the bars of the U.S. Court of Appeals for the Fifth, Seventh, Eighth, and Federal Circuits; the U.S. District Courts for the Eastern and Western District of Missouri and the Central and Southern District of Illinois; the U.S. Court of International Trade; and the Supreme Court of the United States. Mr. King has devoted his career exclusively to litigation over the past fifteen years, practicing in a variety of substantive areas of law while at Korein Tillery, including class actions, products liability, contracts and general business litigation. Mr. King has litigated on behalf of clients in state and federal courts at both the trial and appellate levels, including the Supreme Courts of the United States, Illinois, and Florida. Mr. King played a significant role in the *Garbe* litigation described below. Mr. King also participated in of the presidential election cases in Florida, *Taylor v. Martin County*, in December 2000.

***Aaron M. Zigler***

Aaron Zigler is a partner at Korein Tillery where he frequently represents consumers, whistle-blowers, and investors as plaintiffs in high-stakes litigation and appeals. Mr. Zigler is an accomplished writer and an active member of the American Society of Legal Writers. Prior to his legal career, Mr. Zigler worked in computer security for a Fortune 500 company and continued his interest in computer technology in law school by concentrating his studies in that area.

Mr. Zigler routinely bears the principal responsibility for the briefing and argument of dispositive and jurisdictional motions in a wide variety of complex cases. He also has extensive appellate experience, having been responsible for briefing and arguing such appeals as: *United States ex rel. Garbe v. Kmart Corp.*, No. 15-1502 (7th Cir. 2016); *C.M.D. ex rel. De Young v. Facebook, Inc.*, 621 F. App'x 488 (9th Cir. 2015) (argued); *Price v. Philip Morris, Inc.*, 2015 IL 117687 (Ill. 2015); *Holiday Shores Sanitary Dist. v. Syngenta Crop Prot., Inc.*, No. 111881 (Ill. Sept. 28, 2011); *Carr v. Gateway, Inc.*, 944 N.E.2d 327 (Ill. Feb. 3, 2011) (argued); *Holiday Shores Sanitary Dist. v. Syngenta Crop Prot., Inc.*, No. 05-10-0549 (Ill. App. Jan 13, 2011); *Carr v. Gateway Inc.*, 918 N.E.2d 598 (Ill. App. Ct. 2009) (argued); *Lott v. Pfizer Inc.*, No. 5-08-235 (Ill. App. Oct. 21, 2008); *Travis v. Allstate Ins. Co.*, No. 5-08-110 (Ill. App. Apr. 10, 2008); *Baldwin v. Mendelsohn*, No. 104487 (Ill. 2007); *Hoormann v. Smithkline Beecham Corp.*, No. 5-07-0033 (Ill. App. 2007); *Lott v. Pfizer Inc.*, 492 F.3d 789 (7th Cir. 2007) (argued); *Hoormann v. Smithkline Beecham Corp.*, No. 5-06-0624 (Ill. App. 2006); *Barbara's Sales, Inc. v. Intel Corp.*, 857 N.E.2d 717 (Ill. App. 2006); *Hubbert v. Dell Corp.*, 835 N.E.2d 113 (Ill. App. 2005); and *Pfizer Inc. v. Lott*, 417 F.3d 725 (7th Cir. 2005). Mr. Zigler played a significant role in the *Axiom*, *Senne*, *Garbe*, *City of Greenfield*, *Parker*, and *Hoormann* litigation described below.

Mr. Zigler successes in the courtroom have been featured by the St. Louis Post-Dispatch (“Lawyer a Victor in Class Actions, Says He Fights For Little Guy,” St. Louis Post-Dispatch, June 29, 2008), by The American Lawyer (King & Spalding Lawyer Stirs State Judge’s Ire, 1 Am. Law., Jan. 2007, at 50) and the National Law Journal (e.g., The Plaintiffs’ Hot List, 30 Nat’l L.J., Nov. 22, 2007, at S7).

***Steven M. Berezney***

Steven Berezney is a partner at Korein Tillery’s St. Louis office. Mr. Berezney received his J.D. from the University of Illinois Urbana-Champaign College of Law in 2003 (*magna cum laude*), where he served as Editor-in-Chief of the Law Review. He is licensed in Missouri, Illinois, and New York, as well as the Supreme Court of the United States, the U.S. Court of Appeals for the Sixth, Seventh, and Eighth Circuits, and six federal district courts.

After law school, Mr. Berezney served as a judicial law clerk for Judge Laura Denvir Stith of the Supreme Court of Missouri. Upon completing his clerkship, Mr. Berezney joined Husch Blackwell in 2004 and became a Partner in 2012. While at Husch Blackwell, Mr. Berezney represented clients in the agriculture, retail, tax, financial, and consumer goods industries, including Fortune 500 companies, in complex litigation in both trial and appellate courts involving contract disputes and business torts. Mr. Berezney was part of the team that won a \$1 billion judgment that, at the time, was the fourth largest patent infringement jury verdict in U.S. history, according to Bloomberg. *Monsanto Co. v. E.I. DuPont de Nemours & Co.*, 4:09-cv-00686-ERW (E.D. Mo. Aug. 1, 2012). He also served as either lead or co-lead on bench and jury trials on behalf of both plaintiffs and defendants. *E.g.*, *TVI, Inc. v. InfoSoft Technologies, Inc.*, 4:06-cv-697-JCH, 2008 WL 239784 (E.D. Mo. 2008) (obtained a plaintiff’s verdict in a bench-tried breach of contract case involving undelivered hardware equipment and a terminated software license); *Intertel, Inc. v. Sedgwick Claims Mgmt. Servs., Inc.*, 02CC-000772 (Mo. Cir. Ct., Apr. 29, 2008) (obtained a favorable defense jury verdict on behalf of a claims management company in which plaintiff sought more than \$50 million in damages based on an alleged failure under a contract to refer claims for investigation).

Since joining Korein Tillery in September 2012, Mr. Berezney has been managing and litigating all aspects of multi-billion dollar cases in federal trial and appellate courts against Wall Street investment banks arising from misrepresentations made about residential mortgage-backed securities (“RMBS”) in violation of the federal 1933 Securities Act and state law. Mr. Berezney has played a significant role in obtaining over \$5 billion in recoveries for NCUA and CUNA Mutual as described below, including running or co-running several of the cases.

***Michael E. Klenov***

Michael Klenov is a partner at Korein Tillery’s St. Louis office. Mr. Klenov received his B.A. in Economics, International Studies, and Business Institutions from Northwestern University. While completing his undergraduate degree, Mr. Klenov spent a year studying

economics and philosophy at the London School of Economics and Political Science. Mr. Klenov later graduated from the Washington University School of Law (*magna cum laude*, Order of the Coif) where he received a number of academic awards. While in law school, he served as a Senior Editor of the Washington University Law Review, where he also published his Note. *See Preemption and Removal: Watson Shuts the Federal Officer Backdoor to the Federal Courthouse, Conceals Familiar Motive*, 86 Wash. U. L. Rev. 1455 (2009) (cited by Wright & Miller, 14C Fed. Prac. & Proc. § 3726 (4th ed.)). During law school, Mr. Klenov interned for Chief Judge David R. Herndon of the U.S. District Court for the Southern District of Illinois.

Mr. Klenov is licensed to practice law in Illinois, Missouri, New York, California, and the District of Columbia, as well as numerous federal district and appellate courts. Mr. Klenov concentrates his practice on complex civil litigation in the areas of Securities, Antitrust, Qui Tam/Whistleblower claims, and Commercial Disputes. He represents individuals, governmental entities, and major companies in high-stakes lawsuits.

Since joining Korein Tillery, Mr. Klenov has achieved impressive results for both his individual and his business clients. He has been appointed as lead counsel in several nationwide class actions and has negotiated a number of multi-million dollar class settlements. In 2012, Mr. Klenov was part of the legal team that attained a \$105 million dollar settlement in historic environmental litigation on behalf of a large number of municipalities and the country's largest private water provider. Following the settlement, Public Justice named Mr. Klenov and the rest of the trial team as finalists for their national Trial Lawyer of the Year Award. For the past several years, Mr. Klenov has played a significant role in obtaining over \$5 billion in RMBS recoveries for NCUA and CUNA Mutual as described below. Mr. Klenov was also the lead attorney in a major ERISA/deferred-compensation lawsuit within the Fourth Circuit.

***Randall P. Ewing, Jr.***

Randall Ewing is a partner at Korein Tillery's Chicago office. Mr. Ewing attended the University of Louisville Law School where he earned the highest grade in nearly half of the classes that he took. Upon graduating *summa cum laude* in 2007, he clerked for Judge Gordon J. Quist of the U.S. District Court for the Western District of Michigan and then for Judge Kermit E. Bye of the U.S. Court of Appeals for the Eighth Circuit. Mr. Ewing is licensed to practice law in Illinois, Florida, the United States Court of Appeals for the Sixth and Eighth Circuits, and four federal district courts. Mr. Ewing concentrates his practice on complex civil litigation in the areas of Securities, Antitrust, Qui-Tam, and Commercial disputes.

Before joining Korein Tillery, Mr. Ewing was an associate at Boies Schiller Flexner. While there, Mr. Ewing was part of the team that brought a first-of-its-kind federal challenge to a state constitutional amendment banning same-sex marriage (California's Proposition 8), which was tried and found to be unconstitutional, and he was responsible for briefing

dispositive issues in a False Claims Act trial that resulted in the largest relator-only jury verdict in history.

Since joining Korein Tillery, Mr. Ewing has been responsible for case investigation, preparing pleadings, taking and defending fact and expert depositions, working alongside experts, managing discovery, briefing dispositive and other legal issues, preparing witnesses for trial, conducting cross-examinations in a federal jury trial, and appeals. Mr. Ewing played a significant role in establishing materiality and rebutting defendant's loss causation defense in *NCUA v. RBS Sec., Inc. et al.*, 11-cv-2340- JWL-JPO (D. Kan.) & 2:11-cv-05887 GW-JEM (C.D. Cal.), described below.

***Carol O'Keefe***

Carol O'Keefe is an attorney at Korein Tillery's St. Louis office. Mrs. O'Keefe received her B.A. from Yale College (*summa cum laude*) in 1983 after only three years of study, and she received her J.D. from Harvard Law School (*cum laude*) in 1986. She is licensed in New York, and focuses her practice on Antitrust and Commercial litigation.

After law school, Mrs. O'Keefe served as a judicial law clerk for Judge Michael A. Telesca of the U.S. District Court for the Western District of New York. Thereafter, and until 2008, Mrs. O'Keefe was an associate at Harter Secrest & Emery LLP, where she focused on complex litigation, including Antitrust, Securities, Employment Discrimination, Civil Rights, and Commercial Litigation. Mrs. O'Keefe also worked as an Adjunct Lecturer at the State University of New York at Brockport from 2012-2015, where she designed and taught courses in Modern Constitutional Law and Education Law.

***Garrett R. Broshuis***

Garrett R. Broshuis is an attorney at Korein Tillery's St. Louis office. Garrett received his J.D. from Saint Louis University, where he graduated valedictorian and served as Editor-in-Chief of the Law Journal. Garrett interned for Chief Judge Catherine Perry of the U.S. District Court for the Eastern District of Missouri. He obtained his B.A., *summa cum laude*, from the University of Missouri-Columbia.

Garrett represents dozens of former minor league baseball players in a wage-and-hour action challenging the pay scheme for minor leaguers (*Senne v. Office of the Commissioner of Baseball*, discussed below). He also worked on the CUNA Mutual cases discussed below. His appellate experience includes briefing and arguing cases in both state and federal courts of appeals.



Garrett is an adjunct professor of sports law at Saint Louis University. He has published numerous legal articles and is regularly quoted in publications regarding life in minor league baseball. His work on behalf of minor leaguers has been featured on HBO's Real Sports with Bryant Gumbel.

***Aidan McNamara***

Aidan McNamara is an attorney at Korein Tillery's St. Louis office. Mr. McNamara received his law degree from the University of the West of England, UK, in 2002. He is licensed in Missouri, and focuses his practice on Securities and Commercial litigation.

Before joining Korein Tillery, Mr. McNamara worked for a St. Louis not-for profit whose mission was to promote development and investment in the local art district. He then joined Carey & Danis, where he worked mainly in pharmaceutical product liability. After joining Korein Tillery, Mr. McNamara was part of the *NCUA* litigation team that helped secure over \$5 billion in recoveries as described below.

***Jamie Steinmetz***

Jamie Steinmetz is an attorney at Korein Tillery's St. Louis office. Mrs. Steinmetz received her J.D. from St. Louis University Law School in 2005. She is licensed in Missouri, and focuses her practice on Securities and Commercial litigation. Mrs. Steinmetz was part of the *NCUA* litigation team that helped secure over \$5 billion in recoveries as described below.

In 2008, Mrs. Steinmetz was inducted into Missouri State's Athletic Hall of Fame for her achievements on the soccer field, and currently remains Missouri State's career leader in goals, assists, and points.

**The Firm's Recent Work:**

**SECURITIES**

***National Credit Union Administration Mortgage-Backed Securities Litigation.***

The National Credit Union Administration ("NCUA") is the independent federal agency created by the U.S. Congress to regulate, charter, and supervise federal credit unions. On behalf of the NCUA, Korein Tillery and co-counsel Kellogg, Hansen, Todd, Figel & Frederick filed approximately 20 federal lawsuits throughout 2011-2013 alleging that Wall Street investment banks misled credit unions about the quality of certain residential mortgage-backed securities ("RMBS"), causing billions of dollars of losses that were insured by the NCUA. More specifically, NCUA alleged that these banks violated the federal Securities Act by representing in federally-regulated offering documents that all loans backing the RMBS complied with originator underwriting guidelines or were exceptions based on sufficient compensating factors when in fact the majority of the loans did not.

Throughout several years of contentious litigation, involving several successful appeals, Korein Tillery and Kellogg Hansen obtained more than \$5.1 billion in legal settlements on NCUA's behalf, including but not limited to:

- *NCUA v. JP Morgan Chase Bank*, 2:13-cv-02012-JWL (D. Kan.) (obtained \$1.4 billion settlement in Dec. 2013);
- *NCUA v. RBS Sec., Inc.*, 1:13-cv-06726-DLC (S.D.N.Y.) (accepted offer of judgment for \$129.6 million plus fees in Sept. 2015);
- *NCUA v. Barclays Capital, Inc.*, 1:13-cv-06727-DLC (S.D.N.Y.) & 2:12-cv-02631-JWL (D. Kan.) (obtained \$325 million combined settlement in Oct. 2015);
- *NCUA v. Wachovia Capital Markets LLC*, 1:13-cv-06719-DLC (S.D.N.Y.) & 2:11-cv-02649-JWL (D. Kan.) (obtained \$53 million combined settlement in Oct. 2015);
- *NCUA v. Morgan Stanley & Co., Inc.*, 1:13-cv-06705-DLC (S.D.N.Y.) & 2:13-cv-02418-JWL (D. Kan.) (obtained \$225 million combined settlement in Dec. 2015);
- *NCUA v. Goldman Sachs and Co.*, 1:13-cv-06721-DLC (S.D.N.Y.) & 2:11-cv-06521-GW-JEM (C.D. Cal.) (obtained \$575 million combined settlement in Apr. 2016);
- *NCUA v. RBS Sec., Inc. et al.*, 11-cv-2340-JWL-JPO (D. Kan.) & 2:11-cv-05887 GW-JEM (C.D. Cal.) (obtained \$1.1 billion combined settlement in Sept. 2016);
- *NCUA v. UBS Securities, LLC*, 2:12-cv-02591-JWL (D. Kan.) (obtained \$445 million settlement in Mar. 2017); and
- *NCUA v. Credit Suisse Sec. (USA) LLC*, 2:12-cv-02648-JWL (D. Kan.) (obtained \$400 million settlement in Mar. 2017).

NCUA was the first federal regulatory agency for depository institutions to recover losses from investments in these securities on behalf of failed financial institutions. NCUA uses the net proceeds to reduce Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund) assessments charged to federally insured credit unions to pay for the losses caused by the failure of five corporate credit unions.

Korein Tillery and Kellogg Hansen continue to prosecute several lawsuits on behalf of the NCUA against certain RMBS trustees regarding their alleged failure to perform their duties.

***CUNA Mutual Mortgage-Backed Securities Litigation.***

CMFG Life Insurance Company, CUMIS Insurance Society, Inc., and MEMBERS Life Insurance Company (collectively referred to as "CUNA Mutual") are financial services and insurance firms that offer insurance, investment, and retirement products and services to credit unions and their members. Korein Tillery and Kellogg Hansen filed a series of individual lawsuits in 2011 and 2013 on behalf of CUNA Mutual against eight Wall Street investment banks seeking to recover losses on \$300 million of RMBS purchases using the novel common-law theory of contract rescission.



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As in NCUA, CUNA Mutual alleged that the banks misrepresented in offering documents that all loans backing the RMBS complied with originator underwriting guidelines or were exceptions based on sufficient compensating factors. CUNA Mutual also alleged that the banks misrepresented that it conducted due diligence to verify the accuracy of its offering document representations. In mid-2015, an appellate court issued a favorable opinion in CUNA Mutual's bellwether case approving of CUNA Mutual's primary litigation arguments. *CMFG Life Ins. Co. v. RBS Sec., Inc.*, 799 F.3d 729 (7th Cir. 2015). On remand, the case settled in December 2015 for a confidential amount. CUNA Mutual eventually settled its remaining RMBS cases over the next two years for confidential amounts. *See, e.g., CMFG Life Ins. Co. v. Credit Suisse Sec. (USA) LLC*, 3:14-cv-00249-wmc (W.D. Wis.) (settled in Oct. 2017); *CMFG Life Ins. Co. v. Morgan Stanley & Co., LLC*, 3:13-cv-00577-jdp (W.D. Wis.) (settled in Sept. 2017); *CMFG Life Ins. Co. v. J.P. Morgan Sec, LLC*, 3:13-cv-00580-wmc (W.D. Wis.) (settled in Mar. 2016).

## FOREIGN EXCHANGE

### ***Axiom Investment Advisors, LLC v. Barclays Bank PLC*, No. 15-cv-9323-LGS (S.D.N.Y.) (Schofield, J.).**

From 2008-2015, Barclays Bank PLC acted as both a buyer and seller of various foreign and domestic currencies through various trading platforms. Instead of executing foreign exchange orders placed by Barclays' customers on these platforms, Barclays in secret instituted a "last look" policy that delayed execution of matched trades for several hundred milliseconds or even several seconds which allowed Barclays to determine through its algorithms whether the trade would be unfavorable to its position. If the matched trade would be unfavorable, Barclays reneged on the agreed price and rejected the trade or would place the order at a worse price. Barclays used last look to reject millions of trades that would otherwise have been executed.

Korein Tillery, along with its co-counsel Scott+Scott, Attorneys at Law, LLP and Hausfeld LLP, filed a class action against Barclays Bank PLC regarding its use of "last look," raising breach of contract and other claims. Both firms were appointed as class counsel by the court. Counsel was successful in securing a \$50 million settlement from Barclays on behalf of the class, which was ultimately approved by the court.

### ***Alpari (US) LLC v. BNP Paribas, S.A.*, 17-cv-05278 (S.D.N.Y.) (Schofield, J.); *Alpari (US) LLC v. Credit Suisse Group AG*, 17-cv-05282 (S.D.N.Y.) (Schofield, J.); *Alpari (US) LLC v. The Goldman Sachs Group, Inc.*, 17-cv-05275 (S.D.N.Y.) (Schofield, J.); *Alpari (US) LLC v. Royal Bank of Scotland Group PLC*, 17-cv-05284 (S.D.N.Y.) (Schofield, J.).**

Similar to the two *Axiom* last look cases, Korein Tillery, Scott+Scott, and Hausfeld LLP filed a series of class action lawsuits in 2017 against several additional foreign exchange participants regarding their respective uses of "last look." Defendants' motions to dismiss are pending.

**EMPLOYMENT*****Williams v. Rohm & Haas Pension Plan*, 4:04-cv-0078-SEB-WGH (S.D. Ind.).**

Korein Tillery filed this matter in 2002 alleging that the Rohm & Haas Pension Plan violated ERISA by failing to include the value of future cost-of-living adjustments in calculating lump-sum distributions from the Plan. After eight years of litigation, Korein Tillery obtained one of the largest settlements in the history of ERISA—\$180 million. In 2006, the case was certified and Plaintiffs won summary judgment convincing the district court that the terms of the Plan violated ERISA because a cost-of-living adjustment (COLA) is an “accrued benefit” requiring that it be included in lump-sum distributions. The district court’s decision was affirmed on interlocutory appeal. *Williams v. Rohm & Haas Pension Plan*, 497 F.3d 710, 714 (7th Cir. 2007) (“If a defined benefit pension plan entitles an annuitant to a COLA, it must also provide the COLA’s actuarial equivalent to a participant who chooses instead to receive his pension in the form of a one-time lump sum distribution.”), *cert. denied*, 128 S. Ct. 1657 (2008). Settlement approval and the fee award were later affirmed. 658 F.3d 629 (7th Cir. 2011).

***Senne v. The Office of the Comm’r of Baseball*, No. 14-CV-00608-JCS (N.D. Cal.).**

Plaintiffs in this action are former Minor League baseball players who allege that MLB and MLB’s member franchises failed to pay the players minimum wage or required overtime pay and sometimes failed to pay wages at all. Plaintiffs assert two claims under the federal Fair Labor Standards Act (“FLSA”) and an additional thirty-one under the wage-and-hour laws of eight states: California, Florida, Arizona, North Carolina, New York, Pennsylvania, Maryland and Oregon.

Defendants filed motions to dismiss for lack of personal jurisdiction and to transfer the action to Florida. On May 20, 2015, the Court denied Defendants’ request to transfer the action to Florida and granted in part and denied in part the motions to dismiss for lack of personal jurisdiction, dismissing eight of the thirty franchises from the action without prejudice. *Senne v. The Office of the Comm’r of Baseball*, No. 14-CV-00608-JCS, 2015 WL 2412245 (N.D. Cal. May 20, 2015).

On May 18, 2015, just before the Court issued its order addressing personal jurisdiction and venue, the franchises filed a motion to dismiss challenging Plaintiffs’ standing to assert claims under certain state laws. The Court denied the motion in its entirety. *Senne*, 2015 WL 4240716 (N.D. Cal. July 13, 2015).

On October 20, 2015, the Court granted Plaintiffs conditional certification pursuant to the Fair Labor Standards Act. *Senne*, 2015 WL 6152476 (N.D. Cal. Oct. 20, 2015). In July 2016, the Court decertified the FLSA collective, but it reconsidered that decision in March 2017: it re-certified an FLSA collective and certified a Rule 23 class of minor leaguers who played in

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California. *Senne v. Kansas City Royals Baseball Corp.*, No. 14-CV-00608-JCS, 2017 WL 897338 (N.D. Cal. Mar. 7, 2017). That decision is currently on appeal in the Ninth Circuit.

***Lightfoot v. Arkema, Inc. Ret. Benefits Plan*, CIV. 12-773 JBS/JS (D.N.J.).**

After the court certified a class of present and former plan participants, plaintiffs filed a motion for partial summary judgment on the issue whether the COLAs the Plan promised to participants who elected annuities were part of participants' "accrued benefit" under ERISA. The Plan countered with a motion for summary judgment arguing the statute of limitations had run on all class members' claims owing to statements in a 1994 Summary Plan Description (SPD) and other plan documents. Although the same judge had previously ruled that the statements in the SPD and Plan were "clear repudiations" in a companion case, Plaintiffs convinced the court to deny the Plan's motion for summary judgment and to grant plaintiffs' motion for partial summary judgment, finding that the COLAs promised annuitants are accrued benefits. 2013 WL 3283951 (D.N.J. June 27, 2013).

The case settled in 2014 with the average class member receiving \$11,000 in cash that could be rolled into a retirement account.

***Mansfield v. ALPA*, 06-c-6869 (N.D. Ill.).**

Beginning in 2001, United Airlines encountered financial difficulties that ultimately culminated in its filing for bankruptcy protection. During the course of United's reorganization in bankruptcy, United sought to terminate its pilots' defined benefit pension plan. In exchange for ALPA's agreement not to oppose the termination of the pension plan, United agreed to provide ALPA with \$550 million in convertible notes. ALPA, through its United Airlines Master Executive Council ("MEC"), was tasked with allocating the proceeds from the sale of the convertible notes among the pilots. The MEC selected an allocation method that divided the note proceeds based upon each pilot's lost accrued benefits and lost projected benefits.

Plaintiffs filed this case in 2006 contending that ALPA breached its duty of fair representation in discriminating between its members in allocating the proceeds from the sale of \$550 million in convertible notes. Plaintiffs prevailed on a number of complex and novel issues in the trial court. For example, ALPA moved to exclude retirees from the class, arguing that a union owes no duties to retired pilots under the Railway Labor Act. The court denied ALPA's motion, agreeing with Plaintiffs that because ALPA represented the retirees when it negotiated the convertible notes, it owed them a duty even though the retirees were no longer a part of the bargaining unit. *Mansfield v. ALPA*, 2007 WL 2903074 (N.D. Ill. Oct. 1, 2007). After Plaintiffs also successfully opposed motions for summary judgment, 2009 WL 2386281 (N.D. Ill. Jul. 29, 2009), and to decertify the class, 2009 WL 2601296 (N.D. Ill. Aug. 20, 2009), the parties reached a settlement two-weeks before trial. Per the settlement, ALPA funded an aggregate settlement fund of \$44 million to be directly paid to class members. *Mansfield v. ALPA*, No. 06C6869 (N.D. Ill. Dec. 14, 2009). The settlement is

believed to be one of the largest ever in a duty of fair representation case, in which unions are sued over their responsibility to fairly represent their members.

## **OTHER PRACTICE AREAS**

### ***United States ex rel. Garbe v. Kmart Corp.*, 3:12-cv-00881-NJR-PMF (S.D. Ill.).**

Since 2004, Kmart pharmacies have charged low, flat-rate prices for certain generic drug prescriptions when those drugs are purchased by customers who paid entirely out of their own pockets with no insurance coverage. Since the beginning of the Medicare Part D drug program on January 1, 2006, however, Kmart has charged higher prices—often significantly higher prices—to customers with Medicare Part D coverage for the purchase than it charges self-paying customers for the same prescription. For example, Kmart charged cash customers \$10 for a 60-day supply of 500 mg Naproxen (available in non-prescription strength as Aleve®), but charged the Government \$58.79 for the same prescription.

Korein Tillery and co-counsel Phillips & Cohen filed a False Claims Act case against Kmart after the government declined to intervene. In the litigation, Kmart never disputed that it charges cash-paying customers lower prices than it charges to the Government. Instead, Kmart contended that it was never required to charge the Government the lower prices because those are not the prices Kmart charges to “the general public.” Rather, Kmart claimed its cash-customers are not the “general public” but rather members of an exclusive “club” through which they are offered the discount prices, even though as a practical matter the discount prices are the prices Kmart charges to all its cash customers. Kmart also has no record of denying any cash-paying customer “membership” in Kmart’s “club.” The U.S. District Court for the Southern District of Illinois rejected Kmart’s arguments and denied its motions for summary judgment. Kmart appealed, but the Seventh Circuit affirmed the district court in large part. *United States ex rel. Garbe v. Kmart Corp.*, 824 F.3d 632 (7th Cir. 2016). After remand, the case settled in late-2017 with Kmart agreeing to pay approximately \$59 million.

### ***City of Greenville v. Syngenta Crop Prot., Inc.*, 3:10-CV-188-JPG-PMF (S.D. Ill.).**

On October 23, 2012, the U.S. District Court for the Southern District of Illinois entered an order approving a \$105 million class-action settlement designed to compensate Community Water Systems throughout the United States for the cost of removing the pesticide atrazine from public drinking water. The litigation between Class Members and Syngenta dated back to July 2, 2004, when Holiday Shores Sanitary District filed six separate lawsuits against manufacturers and distributors of atrazine and atrazine-containing products in the Illinois Circuit Court in Madison County.

Atrazine is used to control broadleaf and grassy weeds in a variety of crops, but is applied primarily to corn fields. Atrazine has been one of the most heavily used pesticides in the U.S. Two of atrazine’s key chemical characteristics—that it does not readily bind to soil, and that

it persists in the environment—dramatically increase atrazine’s effectiveness as an herbicide. However, because atrazine does not bind to soil, it easily runs off of fields with rainfall and contaminates surface waters such as the rivers, lakes, and reservoirs that act as drinking-water supplies for public water providers.

Plaintiffs alleged that atrazine had continuously entered their water supplies and as a result of this contamination, they had to filter atrazine from their water sources. After eight years of litigation, Plaintiffs secured a \$105 million settlement fund to be distributed to several hundred community water systems for costs of filtration of atrazine from their drinking-water supplies. *City of Greenville v. Syngenta Crop Prot., Inc.*, No.

3:10-CV-188-JPG-PMF, 2012 WL 1948153 (S.D. Ill. May 30, 2012); *see also* 904 F. Supp. 2d 902 (S.D. Ill. 2012) (granting final approval of settlement and attorneys’ fees). The settlement amounted to approximately 76% of the \$139 million estimated to be the Class’s maximum potential recovery.

To facilitate the settlement claims process, Korein Tillery lawyers collected 20 years of atrazine testing data into a database that was made available to each Class Member through a settlement website. From there, Claimants were able to view the test data already collected for their system and provide additional evidence of atrazine contamination to claim their share of the settlement fund. Although many class actions experience claims rates of less than 15%, in this case virtually all settlement funds were distributed to class members.

Public Justice honored the Korein Tillery lawyers representing the plaintiffs in this case as finalists for its Trial Lawyer of the Year award.

### ***Missouri Utility Tax Litigation***

Since 2007, Korein Tillery has represented Missouri municipalities in class action litigation that sought to recover unpaid license taxes. In suits against wireless and wireline carriers, Korein Tillery attorneys recovered hundreds of millions of dollars of license tax revenues—both retrospectively and prospectively—for more than 350 cities throughout Missouri. Considering the full amount of future tax payments, Korein Tillery will have recovered more than \$1 billion for Missouri municipalities by 2017. As a result of their work in these cases, the Missouri Lawyers Weekly recognized Korein Tillery partners John W. Hoffman and Douglas R. Sprong with awards in the “largest plaintiff wins” category in 2007, 2009, 2010, 2015, and 2017.

In 2012, Korein Tillery was successful in persuading the Supreme Court of Missouri to issue an extraordinary writ (mandamus) declaring unconstitutional a state statute that sought to sweep away this litigation by barring cities and towns from serving as class representatives. *State ex rel. Collector of Winchester v. Jamison*, 357 S.W.3d 589 (Mo. 2012).



***Parker v. Sears, Roebuck & Co., Case No.: 04-L-716 (Ill. Cir. Ct. Sept. 18, 2007).***

Korein Tillery brought this action against Sears in 2004 to remedy Sears's failure to install anti-tip safety devices, which prevent ranges from tipping over and severely burning or injuring unsuspecting consumers, on ranges that it sold, delivered, and set-up in customers' homes. In the 1960s and 1970s, kitchen range manufacturers started reducing the weight of metal in an effort to competitively lower the price of kitchen ranges. Over the course of several years, advances in materials allowed manufacturers to produce ranges which were durable and which were extremely light weight. However, because the oven doors on the front of the ranges serve as a lever and fulcrum, the light weight of the new ranges created an extremely dangerous tipping hazard. For example, if a person were to place a turkey roaster on an open and horizontal oven door, the added weight would cause these newly designed ranges to tip forward spilling the hot contents onto anyone standing in the vicinity. Children who opened and used the range door as a step could unwillingly tip boiling liquids onto themselves. Over the last several years dozens of people have been killed and hundreds have been maimed as a result of this problem.

Recognizing the need for a solution to this dangerous hazard, manufacturers and regulators began requiring installation of an anti-tip bracket that could be attached to the wall or floor at the back end of the range, preventing any forward tipping and maintaining complete stability. The installation is simple and the lightweight bracket costs pennies. The rule making bodies of most codes (BOCA Code, National Electrical Code; numerous other industry codes) thereafter required the installation of anti-tip brackets in all range installations in the United States. Even Sears acknowledged that a properly installed anti-tip bracket completely eliminates the hazards of tipping stoves.

Sears, Roebuck & Company at the time was the largest retail seller of kitchen ranges in the United States—averaging more than 800,000 ranges sold every year. When selling a gas or electric range Sears generally includes delivery, installation, and hookup in customers' homes; thus, Sears became the largest installer of kitchen ranges in the United States. To increase its profits, Sears adopted a policy of refusing to install anti-tip brackets during normal installation unless the customer agreed to incur a substantial cost. At the same time, Sears failed to disclose the hazards associated with forgoing anti-tip bracket installation.

In January 2008, the Court granted final approval of a settlement which provided complete relief to the class by requiring Sears to install anti-tip brackets for the affected members of the class as well as requiring the installation of such brackets in the future. The settlement is valued at more than \$544.5 million.

This settlement was touted by the public interest organization Public Citizen as an example as to how consumer class actions benefit society. Public Citizen nominated Stephen Tillery as Trial Lawyers for Public Justice's Trial Lawyer of the Year based upon his role in this case.

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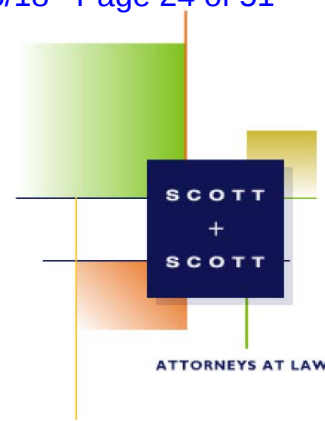
***Hoormann v. SmithKline Beecham Corp.*, 04-L-715 (Ill. Cir. Ct. May 17, 2007).**

In July 2004, Korein Tillery filed suit on behalf of a nationwide class of purchasers alleging that SmithKline Beecham promoted Paxil® and Paxil CR™ for prescription to children and adolescents despite having actual knowledge that these drugs exposed children and adolescents to dangerous side effects while failing to treat their symptoms. Following three years of litigation, Korein Tillery obtained a settlement that established a \$63.8 million dollar fund to reimburse class members 100% of their out-of-pocket expenses. This case was featured in *The American Lawyer*, Aruna Viswanatha, *King & Spalding Lanyer Stirs State Judge's Ire*, [29] 1 Am.Law., Jan. 2007, at 50, and mentioned in the *National Law Journal*. *The Plaintiffs' Hot List*, 30 Nat'l L.J. S8 (Nov. 22, 2007).



# Exhibit B

# SCOTT+SCOTT, ATTORNEYS AT LAW, LLP



## MISSION STATEMENT

Scott+Scott, Attorneys at Law, LLP (“Scott+Scott”) is a nationally recognized law firm headquartered in Connecticut with offices in California, New York City, and Ohio. Scott+Scott represents individuals, businesses, public and private pension funds, and others who have suffered from corporate fraud and wrongdoing. Scott+Scott is directly responsible for recovering hundreds of millions of dollars and achieving substantial corporate governance reforms on behalf of its clients. Scott+Scott has significant expertise in complex antitrust, consumer, securities, ERISA, and civil rights litigation in both federal and state courts. Through its efforts, Scott+Scott promotes corporate social responsibility.

## ANTITRUST

Scott+Scott litigates complex antitrust cases throughout the United States. Scott+Scott represents investors, business, and consumers in price-fixing, bid-rigging, monopolization, and other restraints of trade cases on both a class-wide and individual basis, helping to ensure that markets remain free, open, and competitive. With the opening of a London Office, Scott+Scott’s commitment to competition now includes pursuing its clients’ claims on a global basis.

Scott+Scott’s class action antitrust practice includes serving as court-appointed lead counsel with the responsibility for the prosecution of class claims. Scott+Scott serves as court-appointed lead counsel in high-value antitrust class action cases, including *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-12388 (D. Mass.) (challenging bid rigging and market allocation of leveraged buyouts by private equity firms resulting in \$590.5 million in settlements)); *In Re: Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.) (challenging price-fixing of foreign exchange rates (over \$2 billion in partial settlements negotiated)); and *Alaska Electrical Pension Fund v. Bank of America Corp.*, No. 14-cv-7126 (S.D.N.Y.) (challenging price-fixing of the ISDAfix benchmark interest rate). Scott+Scott has served as court-appointed lead counsel in other cases, including *In re Korean Air Lines Co., Ltd. Antitrust Litigation*, MDL No. 1891, No. CV 07-06542 (C.D. Cal.) (challenging price-fixing/illegal surcharge (\$86 million in cash and travel voucher settlements) and *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company*, No. 12-cv-03824 (E.D. Pa.) (challenging monopolization in the sale of name-brand pharmaceutical (\$8 million settlement)).

When not serving as lead counsel, Scott+Scott has served on the executive leadership committees in numerous class action cases. Representative actions include *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, No. 1:05-md-1720 (E.D.N.Y.) (challenging price-fixing in the payment cards industry (\$7.25 billion settlement)); *Kleen*

*Products LLC v. Packaging Corporation of America*, No. 1:10-cv-05711 (N.D. Ill.) (challenging price-fixing of containerboard products); and *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-md-2420-YGR (DMR) (N.D. Cal.) (challenging price-fixing of lithium-ion batteries).

Scott+Scott's class action antitrust experience includes serving as co-trial counsel in *In re Scrap Metal Antitrust Litigation*, 02-cv-0844-KMO (N.D. Ohio), where it helped obtain a \$34.5 million jury verdict, which was subsequently affirmed by the United States Court of Appeals for the Sixth Circuit (see *In re Scrap Metal Antitrust Litigation*, 527 F.3d 517, 524 (6th Cir. 2008)), and in the consolidated bench trial in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.), and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.).

Scott+Scott also represents large clients in opt-out antitrust litigation. Scott+Scott currently represents Eastman Kodak Company, Agfa Corporation, Agfa Graphics, N.V., and Mag Instrument, Inc. in *In re: Aluminum Warehousing Antitrust Litigation*, MDL No. 2481 (S.D.N.Y.). Scott+Scott previously represented publicly traded corporations, such as Parker Hannifin Corporation and PolyOne Corporation, in matters such as *In re Rubber Chemicals Antitrust Litigation*, MDL No. 1648 (N.D. Cal.); *In re Polychloroprene Rubber (CR) Antitrust Litigation*, MDL No. 1642 (D. Conn.); and *In re Plastic Additives Antitrust Litigation (No. II)*, MDL No. 1684 (E.D. Pa.).

## CONSUMER RIGHTS

Scott+Scott and its attorneys have a proven track record of obtaining significant recoveries for consumers in class action cases. Scott+Scott is one of the premier advocates in the area of consumer protection law and has been appointed to a number of prominent leadership positions.

Cases where Scott+Scott has played a leading role in the area of consumer protection litigation include:

- *In re Providian Financial Corp. Credit Card Terms Litigation*, MDL No. 1301 (E.D. Pa.) (\$105 million settlement was achieved on behalf of a class of credit card holders who were charged excessive interest and late charges on their credit cards);
- *The Vulcan Society, Inc. v. City of New York*, No. 07-cv-02067 (E.D.N.Y.) (\$100 million settlement and significant injunctive relief was obtained for a class of black and Hispanic applicants who sought to be New York City firefighters but were denied or delayed employment due to racial discrimination);
- *In re Prudential Ins. Co. SGLI/VGLI Contract Litigation*, MDL No. 2208 (D. Mass.) (\$40 million settlement was achieved on behalf of a class of military service members and their families who had purchased insurance contracts);
- *In re Target Corp. Customer Data Security Breach Litigation*, MDL No. 2522 (D. Minn.) (\$59 million settlement achieved on behalf of financial institutions involving data breach of personal and financial information of approximately 40 million credit and debit card holders);

- *Greater Chautauqua Federal Credit Union v. Kmart Corporation*, No. 15-cv-02228 (N.D. Ill.) (\$18 million monetary and injunctive settlement on behalf of financial institutions involving data breach of credit and debit card information);
- *Winsouth Credit Union v. Mapco Express Inc.*, Case No.: 3:14-cv-1573 (M.D. Tenn.) (largest dollar-per-card settlement obtained on behalf of financial institutions involving data breach of credit and debit card information);
- *Gunther v. Capital One, N.A.*, No. 09-2966 (E.D.N.Y.) (a net settlement resulting in class members receiving 100% of their damages was obtained);
- *In re Pre-Filled Propane Tank Marketing and Sales Practices Litigation*, MDL No. 2086 (W.D. Mo.) (\$37 million settlement obtained on behalf of class of propane purchasers who alleged defendants overcharged the class for under-filled propane tanks);
- *Murr v. Capital One Bank (USA), N.A.*, No. 1:13-cv-1091 (E.D. Va.) (\$7.3 million settlement pending on behalf of class of consumers who were misled into accepting purportedly 0% interest offers); and
- *Howerton v. Cargill, Inc.*, No. 13-cv-00336 (D. Haw.) (\$6.1 settlement obtained on behalf of a class of consumers who purchased Truvia, purported to be deceptively marketed as “all-natural”).

Moreover, Scott+Scott is currently serving in a leadership capacity in a number of class action consumer protection cases, including:

- *In re The Home Depot, Inc., Customer Data Security Breach Litigation*, MDL No. 2583 (N.D. Ga.) (co-lead counsel, preliminary approval of \$27.25 million settlement on behalf of financial institutions involving data breach and the theft of the personal and financial information of over 40 million credit and debit card holders);
- *First Choice Federal Credit Union v. The Wendy’s Co.*, 2:16-cv-00506 (W.D. Pa.) (co-lead counsel, claims on behalf of financial institutions involving data breach of personal and financial information of millions of credit and debit card holders);
- *In re UnitedHealth Group PBM Litigation*, Case No. 0:16-cv-3352 (D. Minn.) (co-lead counsel, claims on behalf of plan participants involving overcharge of copayments for prescription drugs);
- *In re Cigna Corporation PBM Litigation*, Case No. 3:16-cv-1702 (D. Conn.) (Chair of Executive Committee, claims on behalf of plan participants involving overcharge of copayments for prescription drugs);
- *Midwest America Federal Credit Union v. Arby’s Restaurant Group, Inc.*, 1:17-cv-00514 (N.D. Ga.) (member of Executive Committee, claims on behalf of financial institutions involving data breach of credit and debit card information); and

- *In re Herbal Supplements Marketing and Sales Practices Litigation*, MDL No. 2519 (N.D. Ill.) (claims on behalf of a class of consumers alleging major retail-chain defendants misrepresent the ingredients in store-branded herbal supplements).

## SECURITIES AND CORPORATE GOVERNANCE

Scott+Scott represents individuals and institutional investors that have suffered from stock fraud and corporate malfeasance. Scott+Scott's philosophy is simple – directors and officers should be truthful in their dealings with the public markets and honor their duties to their shareholders. Since its inception, Scott+Scott's securities and corporate governance litigation department has developed and maintained a reputation of excellence and integrity recognized by state and federal and state courts across the country. "It is this Court's position that Scott+Scott did a superlative job in its representation, which substantially benefited Ariel . . . . For the record, it should be noted that Scott+Scott has demonstrated a remarkable grasp and handling of the extraordinarily complex matters in this case . . . . They have possessed a knowledge of the issues presented and this knowledge has always been used to the benefit of all investors." *N.Y. Univ. v. Ariel Fund Ltd.*, No. 603803/08, slip. op. at 9-10 (N.Y. Sup. Ct. Feb. 22, 2010). "The quality of representation here is demonstrated, in part, by the result achieved for the class. Further, it has been this court's experience, throughout the ongoing litigation of this matter, that counsel have conducted themselves with the utmost professionalism and respect for the court and the judicial process." *In re Priceline.com, Inc. Sec. Litig.*, No. 00-cv-01884, 2007 WL 2115592, at \*5 (D. Conn. July 20, 2007).

Scott+Scott has successfully prosecuted numerous class actions under the federal securities laws, resulting in the recovery of hundreds of millions of dollars for shareholders. Representative cases prosecuted by Scott+Scott under the Securities Exchange Act of 1934 include: *In re Priceline.com, Inc. Sec. Litig.*, No. 00-cv-01884 (D. Conn. July 19, 2007) (\$80 million settlement); *Irvine v. ImClone Sys., Inc.*, No. 02-cv-00109 (S.D.N.Y. July 29, 2005) (\$75 million settlement); *Cornwell v. Credit Suisse Group*, No. 08-cv-03758 (S.D.N.Y. July 20, 2011) (\$70 million settlement); *Schnall v. Annuity and Life Re (Holdings) Ltd.*, No. 02-cv-2133 (D. Conn. June 13, 2008) (\$26.5 million settlement); and *St. Lucie County Fire District Firefighter's Pension Trust Fund v. Oilsands Quest Inc.*, No. 11-cv-1288-JSR (S.D.N.Y. Dec. 6, 2013) (\$10.23 million settlement) (\$7.85 million settlement preliminarily approved). Representative cases prosecuted by Scott+Scott under the Securities Act of 1933 include: *In re Washington Mutual Mortgage-Backed Securities Litigation*, No. 09-cv-0037 (W.D. Wash. Jan. 7, 2014) (\$26 million settlement); *In re Pacific Biosciences Securities Litigation*, No. CIV509210 (Cal. Super. Ct., San Mateo County, Oct. 31, 2013) (\$7.68 million settlement); *West Palm Beach Police Pension Fund v. CardioNet, Inc.*, No. 37-2010-00086836-CU-SL-CTL (Cal. Super. Ct., San Diego County, 2010) (\$7.25 million settlement); *Parker v. National City Corp.*, No. CV-08-657360 (Ohio Ct. Com. Pl., Cuyahoga County, June 23, 2010) (\$5.25 million settlement); and *Hamel v. GT Solar International, Inc.*, No. 217-2010-CV-05004 (N.H. Super. Ct., Merrimack County, May 10, 2011) (\$10.25 million settlement).

Scott+Scott currently serves as court-appointed lead counsel in various federal securities class actions, including *Birmingham Retirement and Relief System, v. S.A.C. Capital Advisors*, No. 1:12-cv-09350 (S.D.N.Y. June 17, 2013); *In re NQ Mobile Securities Litigation*, No. 13-cv-

07608 (S.D.N.Y. April 9, 2014); *In re Conn's Inc. Securities Litigation*, No. 14-cv-00548 (S.D. Tex. June 3, 2014) and *Weston v. RCS Capital Corp.*, No. 14-10136 (S.D.N.Y., Dec. 29, 2014).

In addition to prosecuting federal securities class actions, Scott+Scott has a proven track record of handling corporate governance matters through its extensive experience litigating shareholder derivative actions. In addition, Scott+Scott has been singularly successful in its shareholder derivative appellate practice, and as a result, has been instrumental in fashioning the standards in this area of law. In *Westmoreland County Employee Retirement System v. Parkinson*, No. 12-3342 (7th Cir. Aug. 16, 2013), the Seventh Circuit clarified the parameters of demand futility in those instances where a majority of directors of a corporation are alleged to have breached the fiduciary duty of loyalty by consciously disregarding positive law. In *Cottrell v. Duke*, No. 12-3871 (8th Cir. Dec. 28, 2013), the Eighth Circuit, in a case of first impression, clarified that the *Colorado River* stay is virtually never appropriate where there are exclusive federal claims. And in *King v. Verifone Holdings, Inc.*, No. 330, 2010 (Del. Jan. 28, 2011), the Supreme Court of Delaware has clarified the availability of the Delaware Corporate Code Section 220 “books and records” demands to a shareholder whose original plenary action was dismissed without prejudice in a federal district court. Representative actions prosecuted by Scott+Scott include: *In re DaVita Healthcare Partners Derivative Litigation*, No. 13-cv-1308 (D. Colo.) (corporate governance reform valued at \$100 million); *North Miami Beach General Employees Retirement Fund v. Parkinson*, No. 10C6514 (N.D. Ill.) (corporate governance valued between \$50 million and \$60 million); *In re Marvell Tech. Group Ltd. Derivative Litigation*, No. C-06-03894-RMW (RS) (N.D. Cal. Aug. 11, 2009) (\$54.9 million and corporate governance reforms); *In re Qwest Communications International, Inc.*, No. Civ. 01-RB-1451 (D. Colo. June 15, 2004) (\$25 million and corporate governance reform); *Plymouth County Contributory Retirement Fund v. Hassan*, No. 08-cv-1022 (D.N.J.) (settlement of derivative claims against Merck Schering Plough and its officers and directors providing for corporate governance reforms valued between \$50 million and \$75 million); *Carfagno v. Schnitzer*, No. 08-cv-912-SAS (S.D.N.Y. May 18, 2009) (modification of terms of preferred securities issued to insiders valued at \$8 million); and *Garcia v. Carrion*, No. 3:09-cv-01507 (D.P.R. Sept. 12, 2011) (settlement of derivative claims against the company and its officers and directors providing for corporate governance reforms valued between \$10.05 million and \$15.49 million).

Currently, Scott+Scott is actively prosecuting shareholder derivative actions, including *In re Bio-Rad Laboratories, Inc. Stockholder Litigation*, C.A. No. 11387 (Del. Ch. Aug. 13, 2015); *In re Tile Shop Holdings, Inc. Stockholder Derivative Litigation*, C. A. No. 108884 (Del. Ch. July 31, 2015); *West Palm Beach Fire Pension Fund v. Page*, No. 15-1334 (N.D. Cal. March 23, 2015); *In re Duke Energy Corp. Coal Ash Derivative Litigation*, C.A. No. 9682 (Del. Ch. May 21, 2014); and *In re OSI Systems, Inc. Derivative Litigation*, No. 14-2910 (C. D. Cal. April 15, 2014).

## **EMPLOYEE BENEFITS (ERISA)**

Scott+Scott litigates complex class actions across the United States on behalf of corporate employees alleging violations of the federal Employee Retirement Income Security Act. ERISA was enacted by Congress to prevent employers from exercising improper control over retirement plan assets and requires that pension and 401(k) plan trustees, including employer corporations,



owe the highest fiduciary duties to retirement plans and their participants as to their retirement funds. Scott+Scott is committed to continuing its leadership in ERISA and related employee-retirement litigation, as well as to those employees who entrust their employers with hard-earned retirement savings. Representative recoveries by Scott+Scott include: *In re Royal Dutch/Shell Transport ERISA Litigation*, No. 2:04-cv-01398-JWB-SDW (D.N.J. Aug. 30, 2005) (\$90 million settlement); *In re General Motors ERISA Litigation*, No. 2:05-cv-71085-NGE-RSW (E.D. Mich. June 5, 2008) (\$37.5 million settlement); and *Rantala v. ConAgra Foods*, No. 8:05-cv-00349-LES-TDT (D. Neb.) (\$4 million settlement).

## CIVIL RIGHTS LITIGATION

Scott+Scott has also successfully litigated cases to enforce its clients' civil rights. In *The Vulcan Society, Inc. v. The City of New York*, No. 1:07-cv-02067-NGG-RLM (E.D.N.Y.), Scott+Scott was part of a team of lawyers representing a class of black applicants who were denied or delayed employment as New York City firefighters due to decades of racial discriminatory conduct. The district court certified the class in a post-*Walmart v. Dukes* decision, granted summary judgment against the City on both intentional discrimination and disparate impact claims, and after trial ordered broad injunctive relief, including a new examination, revision of the application procedure, and continued monitoring by a court-appointed monitor for at least 10 years. The back pay and compensatory damage award will be determined in a subsequent ruling. In *Hohider v. United Parcel Services, Inc.*, No. 2:04-cv-00363-JFC (W.D. Penn.), Scott+Scott obtained significant structural changes to UPS's Americans with Disabilities Act compliance policies and monetary awards for some individual employees in settlement of a ground-breaking case seeking nationwide class certification of UPS employees who were barred from reemployment after suffering injuries on the job.



## ATTORNEY BACKGROUND AND EXPERIENCE

**DAVID R. SCOTT** is the managing partner of Scott+Scott. He represents multinational corporations, hedge funds, and institutional investors in high-stakes complex litigation, including antitrust, commercial, and securities actions.

Mr. Scott has received widespread recognition for his antitrust work. He has been elected to Who's Who Legal: Competition 2015, 2016, and 2017 which lists the world's top antitrust lawyers who are selected based on comprehensive, independent survey work with both general counsel and lawyers in private practice around the world. He has also received a highly recommended ranking by Benchmark Litigation for each of the years 2013-2015.

Mr. Scott's antitrust experience includes matters dealing with unlawful price-fixing cartels, illegal tying, and anticompetitive monopolization. Currently, Mr. Scott is lead counsel in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, a cartel action alleging a longstanding and widespread conspiracy to manipulate the foreign exchange market, in which billions in settlements have been announced to date. He is co-lead counsel in a class action case alleging that the world's largest banks and their broker, ICAP, entered a conspiracy to manipulate ISDAfix, a financial benchmark that is tied to over \$379 trillion of outstanding interest-rate swaps around the world.

Mr. Scott's previous antitrust cases have resulted in significant recoveries for victims of price-fixing cartels. Among other cases, Mr. Scott served as co-lead counsel in *Dahl v Bain Capital Partners*, No. 1:07-cv-12388 (D. Mass.), an action alleging that the largest private equity firms in the United States colluded to suppress prices that shareholders received in leveraged buyouts and that the defendants recently agreed to settle for \$600 million. He also played a leadership role in a lawsuit accusing Visa and MasterCard of engaging in anticompetitive conduct in setting credit card and debit card acceptance fees that recently settled for a record \$7.25 billion. And he was lead counsel in *Red Lion Medical Safety v. Ohmeda*, No. 06-cv-1010 (E.D. Cal.), a lawsuit alleging that Ohmeda, one of the leading manufacturers of medical anesthesia equipment in the United States, excluded independent service organizations from the market for servicing its equipment. The case was successfully resolved in settlement negotiations before trial.

Mr. Scott has also taken the lead in bringing claims on behalf of institutional investors, such as sovereign wealth funds, corporate pension schemes, and public employee retirement funds, against mortgaged-backed securities trustees for failing to protect investors. Such cases include *Retirement Board of the Policemen's Annuity and Benefit Fund of the City of Chicago v. The Bank of New York Mellon* (MBS sponsored by Countrywide Financial Corp.), No. 1:11-cv-05459 (S.D.N.Y.); *Retirement Board of the Policemen's Annuity and Benefit Fund of the City of Chicago v. Bank of America* (MBS sponsored by Washington Mutual Bank), No. 1:12-cv-02865 (S.D.N.Y.); and *Oklahoma Police Pension and Retirement System v. U.S. Bank National Association* (MBS sponsored by Bear Stearns), No. 1:11-cv-08066 (S.D.N.Y.). He also represented a consortium of regional banks in litigation relating to toxic auction rate securities ("ARS") and obtained a sizable recovery for the banks in a confidential settlement. This case represents one of the few ARS cases in the country to be successfully resolved in favor of the plaintiffs.

In addition, Mr. Scott has extensive experience litigating shareholder derivative cases, achieving substantial corporate governance reforms on behalf of his clients. Representative actions include: *In re Marvell Tech. Group Ltd. Derivative Litigation*, No. C-06-03894 (N.D. Cal.) (settlement obtaining \$54.9 million in financial benefits for the company, including \$14.6 million in cash, and corporate governance reforms to improve stock option granting procedures and internal controls, valued at more than \$150 million); *In re Qwest Communications International, Inc.*, No. 01-RB-1451 (D. Colo.) (settlement obtaining \$25 million for the company and achieving corporate governance reforms aimed at ensuring board independence); *Plymouth County Contributory Retirement System v. Hasan*, No. 08-1022 (D.N.J.) (settlement requiring annual reporting to the company's board where any clinical drug trial is delayed, valued at between \$50 million - \$75 million); *Carfagno v. Schnitzer*, No. 08-cv-0912 (S.D.N.Y.) (settlement resulting in modification of terms of preferred securities issued to insiders, valued at \$8 million); and *Garcia v. Carrion*, No. 09-cv-1507 (D.P.R.) (settlement achieving reforms aimed at rectifying internal control weaknesses and improving director education in accounting and ethics, valued at between \$10 million - \$15 million).

Mr. Scott is frequently quoted in the press, including in publications such as *The Financial Times*, *The Guardian*, *The Daily Telegraph*, *The Wall Street Journal*, and *Law360*. He is regularly invited to speak at conferences around the world and before Boards of Directors and trustees responsible for managing institutional investments.

Mr. Scott is admitted to practice in Connecticut, New York, the United States Tax Court, and numerous United States District Courts.

Mr. Scott is a graduate of St. Lawrence University (B.A., *cum laude*, 1986), Temple University School of Law (J.D., Moot Court Board, 1989), and New York University School of Law (LLM in taxation).

**CHRISTOPHER M. BURKE** chairs Scott+Scott's competition practice and sets the Firm's litigation standards. Mr. Burke's principal practice is in complex antitrust litigation, particularly in the financial services industry and he has served as lead counsel in some of the world's largest financial services antitrust matters. He currently sits as a partner in the firm's San Diego and New York offices.

Currently, Mr. Burke is co-lead counsel in *In Re Foreign Exchange Benchmark Rates Antitrust Litigation*, 13-cv-7789 (S.D.N.Y.) (\$2 billion settlement); *Alaska Electrical Pension Fund v. Bank of America Corporation*, 14-cv-7126 (S.D.N.Y.) (ISDAfix litigation) (\$325 million settlement); and *Axiom Investment Advisors, LLC, by and through its Trustee, Gildor Management LLC v. Barclays Bank PLC*, 15-cv-09323 (S.D.N.Y.) (\$50 million settlement).

Mr. Burke served as co-lead counsel in *Dahl v. Bain Capital Partners*, 07-cv-12388 (D. Mass.) (\$590.5 million settlement); *In re Currency Conversion Antitrust Litigation*, MDL No. 1409 (S.D.N.Y.) (\$336 million settlement); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litigation*, MDL No. 1720 (E.D.N.Y.); *LiPuma v. American Express Co.*, Case No. 1:04-cv-20314 (S.D. Fla.) (\$90 million settlement); and was one of the trial counsel in *Schwartz v. Visa*, Case No. 822505-4 (Alameda Cty. Super. Ct.) (\$780 million plaintiff's

judgment after six months of trial); and *In re Disposable Contact Lens Antitrust Litigation*, MDL No. 1030 (M.D. Fla.). Mr. Burke was one of the original lawyers in the *Wholesale Elec. Antitrust* cases in California, which settled for over \$1 billion.

Further, Mr. Burke was trial counsel in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.) and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.). He was also co-lead counsel for indirect purchasers in *In re Korean Air Lines Co., Ltd. Antitrust Litigation*, MDL No. 1891 (C.D. Cal.) (\$86 million settlement), and *In re Prudential Ins. Co. of America SGLI/VGLI Contract Litigation*, No. 11-md-2208 (D. Mass.) (\$40 million settlement). Mr. Burke also organized and filed the first of the *In re Credit Default Swap Antitrust Litigation*, 13-md-2476 (S.D.N.Y.), matters.

Mr. Burke frequently lectures at professional conferences and CLEs on competition matters, including litigation surrounding financial benchmarks, class-barring arbitration clauses, the effects of *Twombly* in 12(b)(6) motions, and the increasing use of experts at class certification and trial. In 2014, he was recognized for his exemplary work in the *Dahl v. Bain Capital Partners* matter by the American Antitrust Institute and has regularly been designated as a Super Lawyer by Thomson Reuters.

Mr. Burke is a graduate of The Ohio State University (B.A. 1984), William & Mary (M.A. 1988), and the University of Wisconsin (M.A. 1989; J.D. 1993; Ph.D. 1996). He has also served as an Assistant Attorney General at the Wisconsin Department of Justice and has lectured on law-related topics, including constitutional law, law and politics, and civil rights at the State University of New York at Buffalo and at the University of Wisconsin. Mr. Burke's book, *The Appearance of Equality: Racial Gerrymandering, Redistricting, and the Supreme Court* (Greenwood, 1999), examines conflicts over voting rights and political representation within the competing rhetoric of communitarian and liberal strategies of justification.

Mr. Burke is admitted to practice by the Supreme Courts of the States of California, New York, and Wisconsin, and numerous United States District Courts and Courts of Appeal.

**WALTER W. NOSS** serves as the managing partner for Scott+Scott's San Diego office. He practices complex federal litigation with an emphasis on prosecuting antitrust actions on both a class-wide and individual, opt-out basis.

Currently, Mr. Noss represents class plaintiffs in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789 (S.D.N.Y.), an action challenging collusion regarding foreign exchange rates, and *Alaska Electrical Pension Fund v. Bank of America Corporation*, No. 1:14-cv-07126 (S.D.N.Y.), an action challenging collusion regarding the setting of the ISDAfix benchmark interest rate.

Mr. Noss represented class plaintiffs in *Dahl v. Bain Capital Partners LLC*, No. 1:07-cv-12388 (D. Mass.), a case challenging collusion among private equity firms. In *Dahl*, Mr. Noss served as one of the primary litigation counsel prosecuting the case, including deposing key managing directors, drafting dispositive motions, and arguing in court in opposition to defendants' summary judgment motions. The defendants in *Dahl* settled for \$590.5 million.

Mr. Noss represented the indirect purchaser class plaintiffs in *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company*, No. 2:12-cv-03824 (E.D. Pa.), a case challenging monopolistic conduct known as “product hopping” by the defendants. In *Mylan*, he was appointed sole lead counsel for the indirect class, and directed their prosecution and eventual settlement of the case for \$8 million.

Mr. Noss also represents corporate opt-out clients in *In re: Aluminum Warehousing Antitrust Litigation*, MDL No. 2481 (S.D.N.Y.), a case challenging collusion regarding the spot metal price of physically-delivered aluminum. He has previously represented out-out clients in *In re Rubber Chemicals Antitrust Litigation*, MDL No. 1648 (N.D. Cal.); *In re Polychloroprene Rubber (CR) Antitrust Litigation*, MDL No. 1642 (D. Conn.); and *In re Plastics Additives (No. II) Antitrust Litigation*, MDL No. 1684 (E.D. Pa.), which were cases involving price-fixing by horizontal competitors in the synthetic rubber industry.

Mr. Noss has experience successfully litigating in federal civil jury trials. In April 2011, Mr. Noss served as lead trial counsel in *Novak v. Gray*, No. 8:09-cv-00880 (M.D. Fla.), winning a \$4.1 million jury verdict for breach of oral contract and fraudulent inducement. In December 2009, Mr. Noss served as plaintiffs’ local counsel at trial in *Lederman v. Popovich*, No. 1:07-cv-00845 (N.D. Ohio), resulting in a \$1.8 million jury verdict for plaintiffs on claims of breach of fiduciary duties, conversion, and unjust enrichment. In January and February 2006, Mr. Noss assisted the trial team for *In re Scrap Metal Antitrust Litigation*, No. 1:02-cv-0844 (N.D. Ohio 2006), resulting in a \$34.5 million class action plaintiffs’ verdict.

Mr. Noss graduated *magna cum laude* from the University of Toledo with a Bachelor of Arts in Economics in 1997 and *with honors* from The Ohio State University College of Law in 2000. He is a member of the California, New York, and Ohio Bars. Mr. Noss is also a member of the bars of the United States District Courts for the Northern, Central, and Southern Districts of California, the Southern District of New York, and the Northern and Southern Districts of Ohio, as well as the United States Court of Appeals for the Sixth, Ninth, and Eleventh Circuits. Prior to joining Scott+Scott in April 2004, he was an associate in the Cleveland, Ohio office of Jones Day.

**KRISTEN M. ANDERSON** is a partner in the firm’s New York office. Ms. Anderson’s practice focuses on complex and class action litigation with an emphasis on antitrust matters. Ms. Anderson is recognized as a Rising Star in the 2014-15, 2015-16, and 2016-17 editions of Super Lawyers.

A substantial portion of Ms. Anderson’s practice is devoted to antitrust cases within the financial services industry. Currently, Ms. Anderson represents plaintiff-investors in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.), *Axiom Investment Advisors, LLC, by and through its Trustee Gildor Management, LLC v. Deutsche Bank AG*, No. 15-cv-9945 (S.D.N.Y.), and *Axiom Investment Advisors, LLC, by and through its Trustee Gildor Management LLC v. Barclays Bank PLC*, No. 15-cv-9323 (S.D.N.Y.), cases alleging misconduct in the foreign exchange market by many global financial institutions. Ms. Anderson represented pension funds and individual investors in *Dahl v. Bain Capital Partners, LLC*, No. 07-cv-12388 (D. Mass.) (\$590.5 million settlement), an antitrust action alleging collusion in the buyouts of

large publicly traded companies by private equity firms. Ms. Anderson also served on the trial team representing certified classes of cardholders in antitrust cases challenging class action-banning arbitration clauses in credit card agreements as restraints of trade in *Ross v. Bank of America N.A.*, No. 05-cv-7116, MDL No. 1409 (S.D.N.Y.) and *Ross v. American Express Co.*, No. 04-cv-5723, MDL No. 1409 (S.D.N.Y.).

Ms. Anderson is an active member of the American Bar Association's Antitrust Section. She currently serves as Vice Chair of the Antitrust Section's Trial Practice Committee and is co-editor of the Committee's newsletter, *Trying Antitrust*. She has been a Vice Chair of the Antitrust Section's Books & Treatises Committee. She has also been a contributing author to the Antitrust Section's *Antitrust Discovery Handbook* (2d ed.), *Joint Venture Handbook* (2d ed.), and the *2010 Annual Review of Antitrust Law Developments*. In addition, Ms. Anderson served as an editor for *Model Jury Instructions in Civil Antitrust Cases* (2016 ed.). Ms. Anderson was a co-author of an article appearing in the Fall 2014 edition of *Competition: Journal of the Antitrust and Unfair Competition Section of the State Bar of California*, entitled *The Misapplication of Associated General Contractors to Cartwright Act Claims*, 23 COMPETITION: J. ANTI. & UNFAIR COMP. L. SEC. ST. B. CAL. 120 (2014).

Ms. Anderson is a graduate of St. Louis University (B.A. Philosophy, *summa cum laude*, 2003) and the University of California, Hastings College of the Law (J.D. 2006). During law school, Ms. Anderson served as an extern at the U.S. Department of Justice, Antitrust Division, in San Francisco. While at Hastings, Ms. Anderson also served as an extern to Justice Kathryn Mickle Werdegar of the Supreme Court of California and was the research assistant to Professor James R. McCall in the areas of antitrust and comparative antitrust law.

Ms. Anderson is admitted to practice in California, New York, and the District of Columbia.

**JOSEPH P. GUGLIELMO** is a partner in the firm's New York office and represents institutional and individual clients in securities, antitrust, and consumer litigation in federal and state courts throughout the United States and has achieved numerous successful outcomes.

Recently, Mr. Guglielmo, along with other attorneys at Scott+Scott, was recognized for his efforts representing New York University in obtaining a monumental temporary restraining order of over \$200 million from a Bernard Madoff feeder fund. Specifically, New York State Supreme Court Justice Richard B. Lowe III stated, "Scott+Scott has demonstrated a remarkable grasp and handling of the extraordinarily complex matters in this case. The extremely professional and thorough means by which NYU's counsel has litigated this matter has not been overlooked by this Court."

Mr. Guglielmo serves in a leadership capacity in a number of complex antitrust, securities, and consumer actions, including: *In Re: Disposable Contact Lens Antitrust Litigation*, Case No. 3:15-md-2626 (M.D. Fla.), claims on behalf of a class of contact lens purchasers alleging violations of the antitrust laws, *In re The Home Depot, Inc., Customer Data Security Breach Litigation*, MDL No. 2583 (N.D. Ga.), claims involving data breach and the theft of the personal and financial information of 56 million credit and debit card holders, *In re Target Corporation Customer Data Security Breach Litigation*, MDL No. 2522 (D. Minn.), claims involving data



breach and the theft of the personal and financial information of customers holding approximately 110 million credit and debit cards. *In re Herbal Supplements Marketing and Sales Practices Litigation*, MDL No. 2619 (N.D. Ill.), claims on behalf of a class of consumers alleging major retail-chain defendants misrepresented the ingredients in store-branded herbal supplements. Mr. Guglielmo is also actively involved in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789-LGS (S.D.N.Y), which involves claims on behalf of purchasers of foreign exchange instruments alleging violations of federal antitrust laws.

Mr. Guglielmo has achieved significant victories and obtained numerous settlements for his clients. He was one of the principals involved in the litigation and settlement of *In re Managed Care Litigation*, MDL No. 1334 (S.D. Fla.), which included settlements with Aetna, CIGNA, Prudential, Health Net, Humana, and WellPoint, providing monetary and injunctive benefits exceeding \$1 billion. Additional cases Mr. Guglielmo played a leading role and obtained substantial recoveries for his clients include: *Love v. Blue Cross and Blue Shield Ass'n*, No. 03-cv-21296 (S.D. Fla.), which resulted in settlements of approximately \$130 million and injunctive benefits valued in excess of \$2 billion; *In re Insurance Brokerage Antitrust Litigation*, MDL No. 1897 (D.N.J.), settlements in excess of \$180 million; *In re Pre-Filled Propane Tank Marketing and Sales Practices Litigation*, MDL No. 2086 (W.D. Mo.), consumer settlements in excess of \$40 million; *Bassman v. Union Pacific Corp.*, No. 97-cv-02819 (N.D. Tex.), \$35.5 million securities class action settlement; *Garcia v. Carrion*, Case No. CV. 11-1801 (D. P.R.), substantial corporate governance reforms; *Boilermakers National Annuity Trust Fund v. WaMu Mortgage Pass-Through Certificates*, No. 09-cv-00037 (W.D. Wash.), \$26 million securities class action settlement, *Murr v. Capital One Bank (USA), N.A.*, No. 13-cv-1091 (E.D. Va.) \$7.3 million settlement pending on behalf of class of consumers who were misled into accepting purportedly 0% interest offers, and *Howerton v. Cargill, Inc.*, No. 13-cv-00336 (D. Haw.) \$6.1 settlement obtained on behalf of class of consumers who purchased Truvia, purported to be deceptively marketed as “all-natural.”

Mr. Guglielmo was the principle litigator and obtained a significant opinion from the Hawaii Supreme Court in *Hawaii Medical Association v. Hawaii Medical Service Association*, 113 Hawaii 77 (Haw. 2006), reversing the trial court’s dismissal and clarifying rights for consumers under the state’s unfair competition law.

Mr. Guglielmo lectures on electronic discovery and is a member of the Steering Committee of the Sedona Conference®, an organization devoted to providing guidance and information concerning issues such as discovery and production issues, as well as areas focusing on antitrust law, complex litigation, and intellectual property. Recently, Mr. Guglielmo was selected as a speaker for electronic discovery issues at the Sedona Conference as well as the Advanced eDiscovery Institute at Georgetown University Law Center. Mr. Guglielmo was also recognized for his achievements in litigation by his selection to *The National Law Journal*’s “Plaintiffs’ Hot List.” In 2016, Mr. Guglielmo was named by Super Lawyers as a top Antitrust lawyer in New York, New York.

Mr. Guglielmo graduated from the Catholic University of America (B.A., *cum laude*, 1992; J.D., 1995) and also received a Certificate of Public Policy.

Mr. Guglielmo is admitted to practice before numerous federal and state courts: the United States Supreme Court, the United States Court of Appeals for the First Circuit, Second Circuit, Third Circuit, Eighth Circuit and Ninth Circuit, the United States District Courts for the Southern and Eastern Districts of New York, District of Massachusetts, District of Connecticut, District of Colorado, Eastern District of Wisconsin, New York State, the District of Columbia, and the Commonwealth of Massachusetts. He is also a member of the following associations: District of Columbia Bar Association, New York State Bar Association, American Bar Association, and The Sedona Conference®.

**WILLIAM C. FREDERICKS** holds a B.A. (with high honors) from Swarthmore College (Pa.), an M. Litt. in International Relations from Oxford University (England), and a J.D. from Columbia University Law School (N.Y.). At Columbia, Mr. Fredericks was also a three-time Harlan Fiske Stone Scholar, a Columbia University International Fellow, and the winner of the law school's Beck Prize (property law), Toppan Prize (advanced constitutional law) and Greenbaum Prize (written advocacy). A three-judge panel chaired by the late Justice Antonin Scalia also awarded Mr. Fredericks the Thomas E. Dewey Prize for the best oral argument in the final round of Columbia's Stone Moot Court Honor Competition.

After clerking for the Hon. Robert S. Gawthrop III (E.D. Pa.) in Philadelphia, Mr. Fredericks spent seven years practicing securities and complex commercial litigation at Simpson Thacher & Bartlett LLP and Willkie Farr & Gallagher LLP in New York before moving to the plaintiffs' side of the bar in 1996. Since 1996, Mr. Fredericks has represented investors as a lead or co-lead plaintiff in dozens of securities class actions, including *In re Wachovia Preferred Securities and Bond/Notes Litig.* (S.D.N.Y.) (total settlements of \$627 million, reflecting the largest recovery ever in a pure Securities Act case not involving any parallel government fraud claims); *In re Rite Aid Securities Litig.* (E.D. Pa.) (total settlements of \$323 million, including the then-second largest securities fraud settlement ever against a Big Four accounting firm); *In re Sears Roebuck & Co. Sec. Litig.* (N.D. Ill.) (\$215 million settlement, representing the then-largest §10(b) class action recovery in an action that did not involve either a financial restatement or parallel government fraud claims); *In re State Street ERISA Litig.* (S.D.N.Y.) (one of the largest ERISA class settlements to date); *In re King Digital Sec. Enter. PLC S'holder Litig.* (Super. Ct. San Fran. Cty.) (\$18.5 million settlement pending, representing one of the largest state court §11 class action recoveries to date); and *Irvine v. ImClone Systems, Inc.* (S.D.N.Y.) (\$75 million settlement). Mr. Fredericks also played a leading role on the team that obtained a rare 9-0 decision for securities fraud plaintiffs in the U.S. Supreme Court in *Merck & Co., Inc. v. Reynolds* (which later settled for \$1.052 billion), and has also coauthored amicus briefs in various other Supreme Court cases (including *Halliburton* and *Amgen*) involving securities issues.

At Scott+Scott, Mr. Fredericks' current cases include representing investors in several pending securities fraud actions, and in antitrust litigation against over a dozen leading banks based on their involvement in manipulating foreign exchange ("FX") rates and spreads.

Mr. Fredericks has been recognized in the 2012-17 editions of "America's Best Lawyers" in the field of commercial litigation, in "Who's Who in American Law" (Marquis), and in the New York City "SuperLawyers" listings for securities litigation. He has been a frequent panelist on various securities litigation programs sponsored by the Practising Law Institute (PLI), and has



lectured overseas on American class action litigation on behalf of the American Law Institute/American Bar Association (ALI/ABA). He is also a member of the New York City Bar Association (former chair, Committee on Military Affairs and Justice), the Federal Bar Council and the American Bar Association.

**SYLVIA M. SOKOL** is a New York- and London-based partner in the firm's Antitrust and Competition Law Practice. She focuses on representing national and international clients in litigation involving domestic and international cartels. Ms. Sokol has substantial experience in all aspects of complex litigation, including the day-to-day management of cases. She also has substantial experience in counseling corporate clients, evaluating potential claims, and developing strategies to recoup losses stemming from anticompetitive conduct.

Ms. Sokol currently represents a nationwide class in price-fixing litigation regarding the \$5.3 trillion-a-day foreign exchange market. She also represents a proposed nationwide class in an action involving ISDAfix, a financial benchmark that is tied to over \$379 trillion of interest-rate swaps around the world. In addition, Ms. Sokol represents several large multinational corporations alleging that Goldman Sachs, JPMorgan, Glencore, and their warehouse affiliates conspired to restrict the supply of aluminum in London Metal Exchange-approved warehouses. And she represents several government entities in a national lawsuit alleging bid-rigging in the municipal derivatives market.

In addition, Ms. Sokol's civil litigation experience has involved defending corporate clients charged with unlawful business practices and monopolizations. She has also represented clients in criminal and extradition matters.

Ms. Sokol was selected for the International Who's Who of Competition Lawyers & Economists and for Competition - U.S. in 2016 and 2017. Honorees are selected based on comprehensive and independent survey responses received from general counsel and private practitioners around the world. She has been selected to be a Fellow in The Trial Lawyer Honorary Society of the Litigation Counsel of America, which is a trial lawyer honorary society composed of less than one-half of one percent of American lawyers. Lawyer Monthly magazine awarded her the Women in Law Award 2017. She was also named a "Super Lawyer" in 2014, 2015, 2016, and 2017, Super Lawyers New York Metro Edition, and was named a "Super Lawyer" in 2011-2012, Super Lawyers Northern California Edition.

She is a 1998 graduate of the New York University School of Law (*cum laude*), and completed her undergraduate studies at the University of British Columbia. After law school, Ms. Sokol was awarded the Soros Justice Fellowship to serve a year in the Capital Habeas Unit of the Federal Public Defender's Office, where she represented clients condemned to death and developed training materials for members of the capital defense bar. She then served as a judicial law clerk to the Honorable Warren J. Ferguson, United States Court of Appeals for the Ninth Circuit, before spending several years working at Morrison & Foerster LLP.

Ms. Sokol is a member of the American Bar Association and is admitted to practice in New York, California, and the District of Columbia. She is also admitted to the Southern District of

New York, the Northern, Southern, and Eastern Districts of California, as well as the United States Supreme Court.

She is bilingual in English and French, and holds French and United States citizenships.

**PETER A. BARILE III** is a partner in Scott+Scott's competition practice. His focus is on complex antitrust and commodity litigation.

Mr. Barile has extensive experience representing clients on both sides of the docket in a variety of industries and contexts, from consumers and investors to institutions and corporations, whether as individual plaintiffs, class plaintiffs, opt-outs, or defendants in complex matters. Prior to joining the firm, he practiced both in New York and in Washington D.C., with major law firms renowned for their historically leading antitrust practices.

Mr. Barile devotes a substantial amount of his practice to federal antitrust and commodity class action litigation involving the financial services industry in the Southern District of New York. Mr. Barile is or has been involved in representing investor rights in major cases involving commodities and financial benchmarks, including: *Aluminum*, *Cotton*, *Crude Oil*, *FX*, *Gold*, *ISDAfix*, *LIBOR*, *Silver*, and *Zinc*.

He also has significant experience litigating high-tech antitrust cases in the Northern District of California, including *In re Online DVD Antitrust Litigation*; *In re Lithium Ion Batteries Antitrust Litigation*; and *In re High Tech Employees Antitrust Litigation*.

In addition to his work in federal district trial courts, Mr. Barile has considerable experience in other arenas, including the Judicial Panel on Multidistrict Litigation, federal Circuit Courts of Appeal, and the United States Supreme Court.

Mr. Barile is active in the antitrust bar, having held a number of leadership posts in the ABA and other organizations. He serves on the Advisory Board of the Loyola Institute for Consumer Antitrust Studies. Mr. Barile has published numerous articles and served as a panelist or speaker on antitrust issues. His work has been cited by the Federal Trade Commission and the Antitrust Modernization Commission, as well as leading academics and practitioners.

Mr. Barile also has helped nonprofit advocacy groups be heard in matters of national importance as Friends of the Court in major cases before the United States Supreme Court. His work has included *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U.S. 877 (2007), in which he served as lead counsel for *amicus curiae* Consumer Federation of America in a landmark antitrust case on resale price fixing, and *Giles v. State of California*, 554 U.S. 353 (2008), in which he served as lead counsel for *amicus curiae* Battered Women's Justice Project, in a case concerning the scope of the Confrontation Clause of the United States Constitution.

Mr. Barile earned his law degree in 1999 from the University of Connecticut School of Law, *magna cum laude*, where he was an Editor of the Connecticut Law Review and Moot Court Champion. His bachelor's degree is from the University of Connecticut.

Mr. Barile is a member of the bars of New York, Connecticut, and the District of Columbia. He is admitted to practice in the United States District Courts for the Southern District of New York, Eastern District of New York, District of Columbia, Northern District of Illinois, District of Connecticut; United States Courts of Appeal for the Second, Fourth, Sixth, Seventh, Ninth, Federal, and District of Columbia Circuits, and the Supreme Court of the United States.

**DONALD A. BROGGI** is a partner in the firm's New York office. Mr. Broggi is a graduate of the University of Pittsburgh (B.A., 1990) and Duquesne University School of Law (J.D., 2000). He is engaged in the firm's complex securities, antitrust, and consumer litigation, including: *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.), *In re: Priceline.com Inc. Securities Litigation*, No. 00-cv-1884 (D. Conn.), *Irvine v. ImClone Systems, Inc.*, No. 02-cv-0109 (S.D.N.Y.), *In re: Rubber Chemicals Antitrust Litigation*, No. C04-01648 (N.D. Cal.), *In re: Plastics Additives Antitrust Litigation*, No. 03-cv-2038 (E.D. Pa.), and *In re Washington Mutual Mortgage-Backed Securities Litigation*, No. 09-cv-0037 (W.D. Wash.), among others.

Mr. Broggi also works with the firm's institutional investor clients, including numerous public pension systems and Taft-Hartley funds throughout the United States to ensure their funds have proper safeguards in place to ensure against corporate malfeasance. Similarly, Mr. Broggi consults with institutional investors in the United States and Europe on issues relating to corporate fraud in the U.S. securities markets, as well as corporate governance issues and shareholder litigation. Mr. Broggi has lectured at institutional investor conferences throughout the United States on the value of shareholder activism as a necessary component of preventing corporate fraud abuses, including the Texas Association of Public Employee Retirement Systems, Georgia Association of Public Pension Trustees, Michigan Association of Public Retirement Systems, Illinois Public Pension Fund Association, and the Pennsylvania Association of County Controllers, among others.

Mr. Broggi is admitted to practice in New York and Pennsylvania.

**DARYL F. SCOTT** graduated in 1981 from Vanderbilt University with a Bachelor of Arts in Economics. He received his Juris Doctorate from Creighton University School of Law in 1984, and a Masters of Taxation from Georgetown University Law Center in 1986. Mr. Scott is a partner involved in complex securities litigation at Scott+Scott. In addition to his work with the firm, Mr. Scott has specialized in private foundation and ERISA law. He was also formerly an executive officer of a private equity firm that held a majority interest in a number of significant corporations. Mr. Scott is admitted to the Supreme Court of Virginia and a member of the Virginia Bar Association and the Connecticut Bar Association.

**GEOFFREY M. JOHNSON** is a partner in the firm's Ohio office. Mr. Johnson's practice focuses on commercial and class action trial work and appeals. His areas of concentration include complex securities litigation, ERISA class actions, and commercial and class action antitrust litigation.

Notably, Mr. Johnson serves as lead counsel in *Pfeil v. State Street Bank and Trust Company*, 2:09-cv-12229 (E.D. Mich.), a case of national significance in the area of employee retirement plans. In the case, Mr. Johnson represents a class of over 200,000 current and former General

Motors employees who owned General Motors stock in GM's two main retirement plans. Mr. Johnson successfully argued the case to the United States Court of Appeals for the Sixth Circuit, which issued an opinion that is now looked to nationally as one of the seminal cases in the area of ERISA fiduciary duties and employee rights. *See Pfeil v. State Street Bank and Trust Company*, 671 F.3d 585 (6th Cir. 2012).

Mr. Johnson has also served as lead or co-lead counsel in other major securities and ERISA cases, including: *In re Royal Dutch/Shell ERISA Litigation*, No. 04-1398 (D.N.J.), which settled for \$90 million and is one of the three largest recoveries ever obtained in an ERISA class action case; *In re Priceline Securities Litigation*, 00-cv-1884 (D. Conn.), which settled for \$80 million and is the largest class action securities settlement ever obtain in the State of Connecticut; and *In re General Motors ERISA Litigation*, 05-cv-71085 (E.D. Mich.), a case that settled for \$37.5 million and ranks among the largest ERISA class settlements ever obtained.

Mr. Johnson has been active in the firm's mortgage-backed securities litigation practice, serving as lead or co-lead counsel in mortgage-backed securities class action cases involving Washington Mutual (*In re Washington Mutual Mortgage Backed Securities Litigation*, 2:09-cv-00037 (W. D. Wash.)) and Countrywide Financial (*Putnam Bank v. Countrywide Financial, Inc.*, No. 10-cv-302 (C.D. Cal.)). Mr. Johnson also helped develop the theories that the firm's pension fund clients have used to pursue class action cases against mortgage-backed security trustees. *See Retirement Board of the Policemen's Annuity & Benefit Fund of the City of Chicago v. Bank of New York Mellon* (Case No. 11-cv-05459 (S.D.N.Y.)); *Oklahoma Police Pension & Retirement System v. U.S. Bank NA* (Case No. 11-cv-8066 (S.D.N.Y.)).

In addition, Mr. Johnson is active in the firm's appellate practice group, where he has handled numerous class action appeals, including appeals in the United States Court of Appeals for the Second Circuit, Third Circuit, Fifth Circuit, Sixth Circuit, Seventh Circuit, and Eleventh Circuit.

Mr. Johnson is a graduate of Grinnell College (B.A., Political Science with Honors, 1996) and the University of Chicago Law School (J.D., with Honors, 1999), where he served on the law review. Prior to joining Scott+Scott, Mr. Johnson clerked for the Honorable Karen Nelson Moore, United States Court of Appeals for the Sixth Circuit.

**ERIN GREEN COMITE** is a partner in the firm's Connecticut office. Ms. Comite is a graduate of Dartmouth College (B.A., *magna cum laude*, 1994) and the University of Washington School of Law (J.D., 2002). Ms. Comite litigates complex class actions throughout the United States, representing the rights of shareholders, employees, consumers, and other individuals harmed by corporate misrepresentation and malfeasance. Since joining Scott+Scott in 2002, she has litigated such cases as *In re Priceline.com Securities Litigation* (\$80 million settlement); *Schnall v. Annuity and Life Re (Holdings) Ltd.* (\$27 million settlement); and *In re Qwest Communications International, Inc.* (settlement obtaining \$25 million for the company and achieving corporate governance reforms aimed at ensuring board independence). Currently, she is one of the court-appointed lead counsel in *In re Monsanto Company Genetically-Engineered Wheat Litigation*, MDL No. 2473 (D. Kan.), and is prosecuting or has recently prosecuted actions against defendants such as Banco Popular, N.A.; Cargill, Inc.; The Estée

Lauder Companies, Inc.; Ferrero USA, Inc.; L'Oreal USA, Inc.; Merisant Company; Merrill, Lynch, Pierce, Fenner & Smith, Inc.; NCO Financial Systems, Inc.; and Nestlé USA, Inc.

While Ms. Comite is experienced in all aspects of complex pre-trial litigation, she is particularly accomplished in achieving favorable results in discovery disputes. In *Hohider v. United Parcel Service, Inc.*, Ms. Comite spearheaded a nearly year-long investigation into every facet of UPS's preservation methods, requiring intensive, full-time efforts by a team of attorneys and paralegals well beyond that required in the normal course of pre-trial litigation. Ms. Comite assisted in devising the plan of investigation in weekly conference calls with the Special Master, coordinated the review of over 30,000 documents that uncovered a blatant trail of deception and prepared dozens of briefs to describe the spoliation and its ramifications on the case to the Special Master. In reaction to UPS's flagrant discovery abuses brought to light through the investigation, the Court conditioned the parties' settlement of the three individual ADA case on UPS adopting and implementing preservation practices that passed the approval of the Special Master.

Ms. Comite also is active in the firm's appellate practice. Recent successes include achieving a Ninth Circuit reversal of a district court's dismissal of consumers' claims concerning Nestlé's Juicy Juice Brain Development Beverage, which the plaintiffs alleged was deceptively marketed as having the ability to improve young children's cognitive development with minute quantities of the Omega-3 fatty acid, DHA. *Chavez v. Nestle USA, Inc.*, 511 F. App'x 606 (9th Cir. 2013).

Prior to entering law school, Ms. Comite served in the White House as Assistant to the Special Counsel to President Clinton. In that capacity, she handled matters related to the White House's response to investigations, including four independent counsel investigations, a Justice Department task force investigation, two major oversight investigations by the House of Representatives and the Senate, and several other congressional oversight investigations.

Ms. Comite's volunteer activities have included assisting immigrant women, as survivors of domestic violence, with temporary residency applications as well as counseling sexual assault survivors. Currently, Ms. Comite supports Connecticut Children's Medical Center and March of Dimes/March for Babies.

Ms. Comite is licensed to practice in the State of Connecticut and is admitted to practice in the U.S. District Court for the District of Connecticut and the Southern District of New York and the U.S. Court of Appeals for the Second, Third, Ninth and Eleventh Circuits.

**DAVID H. GOLDBERGER** is an associate in Scott+Scott's San Diego office. Currently, Mr. Goldberger's practice is focused on antitrust litigation, initial case investigations, and other special projects.

Representative actions include *Kleen Products LLC v. Packaging Corporation of America*, No. 10-cv-5711 (N.D. Ill.), an action challenging price-fixing in the containerboard industry, and *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-md-2420 (N.D. Cal.), an action challenging price-fixing of Li-Ion batteries. Mr. Goldberger has also worked on antitrust cases involving delayed generic drug entry, such as *Mylan Pharmaceuticals Inc. v. Warner Chilcott Public Ltd.*



Co., No. 12-cv-3824 (E.D. Pa.) (\$8 million settlement) and *In re Prograf Antitrust Litig.*, No. 1:11-md-02242 (D. Mass.).

Previously, Mr. Goldberger was active in Scott+Scott's securities fraud and ERISA practice, including *In re: Priceline.com Securities Litigation*, 03-cv-1884 (D. Conn.) (\$80 million settlement), *Alaska Electrical Pension Fund v. Pharmacia Corporation*, No. 03-1519 (D.N.J.) (\$164 million settlement), and *In re: General Motors ERISA Litigation*, No. 05-71085 (E.D. Mich.) (resulting in significant enhancements to retirement plan administration in addition to \$37.5 million settlement for plan participants).

Mr. Goldberger was also a member of Scott+Scott's institutional investor relations staff, providing the Firm's many institutional clients with assistance in various matters pertaining to their involvement in complex civil litigations.

Mr. Goldberger is also a frequent contributing author to Market+Litigation, Scott+Scott's monthly client newsletter.

Mr. Goldberger graduated from the University of Colorado (B.A., 1999) and California Western School of Law (J.D., 2002). Mr. Goldberger is admitted to practice by the Supreme Court of the State of California and in all California United States District Courts.

A San Diego native, Mr. Goldberger was a founding member of the Torrey Pines High School "Friends of the Library" and coaches youth sports in his spare time.

**JULIE A. KEARNS** has been litigating complex class action cases, focusing primarily on violations of federal antitrust and securities laws, since 2006. She also has experience handling civil matters in California state court, and is located in Scott+Scott's San Diego office. Ms. Kearns has been recognized as a Rising Star in the 2015, 2016, and 2017 editions of Super Lawyers. She was also honored by the San Diego Business Journal as Best of the Bar in 2015.

At Scott+Scott, Ms. Kearns presently devotes much of her time representing investors in cases involving the manipulation of financial benchmarks by numerous major banks, including *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y) and *Alaska Elec. Pension Fund v. Bank of America Corp.*, No. 14-cv-7126 (S.D.N.Y).

A native Southern Californian, Ms. Kearns earned her Bachelor of Arts degree from the University of California, Santa Barbara, in 2003, with a double major in Political Science and Law & Society. She graduated *cum laude* from Thomas Jefferson School of Law in 2006. During law school, Ms. Kearns served as Executive Board Co-Chair of the Moot Court Society, and participated in multiple competitions across the country. She also served as judicial intern to the Honorable Judge William S. Cannon, who oversaw civil matters in the Superior Court of California, County of San Diego. She completed internships at various public defender entities at both the state and federal levels, and drafted sponsorship agreements and similar documents as legal intern for the local minor league ice hockey team, the San Diego Gulls.

As an avid animal lover and supporter of animal rights, Ms. Kearns has served as *pro bono* volunteer attorney in association with the non-profit association Expand Animal Rights Now



(“EARN”) since 2016. She is a long-time supporter of the San Diego Humane Society, the San Diego Zoological Society, the ASPCA, and other similar organizations. Ms. Kearns has also made presentations to middle and high school students around San Diego County as part of the annual, non-partisan Constitution Day event organized by the San Diego ACLU.

Ms. Kearns is licensed to practice law in the state of California, and is admitted to the U.S. District Court for the Southern, Central, and Northern Districts of California, the District of Colorado, and the U.S. Court of Appeals for the Fifth Circuit.

**THOMAS K. BOARDMAN** is an associate in the Scott+Scott’s New York office, focusing on antitrust litigation. At his prior firm, Mr. Boardman was a member of the trial team in *In re TFT-LCD (Flat Panel) Antitrust Litigation*. For his work on that case, Mr. Boardman was nominated by Consumer Attorneys of California as a finalist for Consumer Attorney of the Year. Mr. Boardman was also an instrumental part of the lead counsel team in *In re Potash Antitrust Litigation (II)*, a case that featured a unanimous victory before an *en banc* panel of the Seventh Circuit, resulting in one of the most influential antitrust appellate opinions in recent memory. The case ended in \$90 million in settlements.

At Scott+Scott, Mr. Boardman represents plaintiff-investors in *In re Foreign Exchange Benchmark Rates Antitrust Litigation* and represents opt-out plaintiffs in *Mag Instrument Inc v. The Goldman Sachs Group Inc.* Mr. Boardman also represents indirect purchaser plaintiffs in *In re Lithium Ion Batteries Antitrust Litigation*.

Mr. Boardman received his Bachelor of Arts degree from Vassar College in 2004, majoring in Political Science and Film Studies. He received his Juris Doctorate from the University of California, Hastings College of the Law in 2009. While at Hastings, Mr. Boardman was a member of the Hastings Science and Technology Law Journal and worked as a research assistant to professors Geoffrey C. Hazard, Jr. and Rory K. Little. Mr. Boardman is a member of the following Bars: California, New York, Ninth Circuit Court of Appeals, Central District of California, Northern District of California, and Southern District of California. He is also a member of the following professional associations: ABA Antitrust Section – Model Jury Instruction Revision Task Force, ABA Antitrust Section – Young Lawyers Division – Litigation Committee, ABA Antitrust Section – Young Lawyers Division – Civil Practice and Procedure Committee, New York State Bar Association – Antitrust Section, Bar Association of San Francisco, and Public Justice Foundation.

Mr. Boardman has co-authored the following articles: “Reverse Engineering Your Antitrust Case: Plan for Trial Even Before You File Your Case,” *Antitrust Magazine*, Spring 2014, Vol. 28, No. 2, with Bruce L. Simon; and “Class Action for Health Professionals,” chapter from *Advocacy Strategies for Health and Mental Health Professionals*, Springer Publishing Co., 2011, with Bruce L. Simon, Stuart L. Lustig, Editor.

Prior to joining Scott+Scott, Mr. Boardman worked at Pearson, Simon & Warshaw, LLP in San Francisco and served as a judicial law clerk to the Hon. Christina Reiss in United States District Court, District of Vermont.

Mr. Boardman enjoys running and regularly does so for charity. He has run several races to fundraise for various causes, including the New York City Marathon (National Multiple Sclerosis Foundation) and the Boston Marathon (Cystic Fibrosis Foundation).

**JOHN JASNOCH**'s practice areas include securities and antitrust class actions, shareholder derivative actions, and other complex litigation. Mr. Jasnoch represented plaintiffs in *In re Washington Mutual Mortgage-Backed Securities Litigation*, Case No. 2:09-cv-00037 (W.D. Washington), a case that was litigated through summary judgment and settled on the eve of trial for \$26 million. Mr. Jasnoch was also one of the lead attorneys that secured a \$7.68 million settlement in *In re Pacific Biosciences Securities Litigation*, Case No. CIV509210 (San Mateo County, California). Other cases Mr. Jasnoch has worked on that have achieved notable results include: *West Palm Beach Police Pension Fund v. Cardionet, Inc.*, Case No. 37-2010-00086836-CU-SL-CTL (San Diego County, California) (\$7.25 million settlement), *Hodges v. Akeena Solar*, 09-cv-2147 (N.D. Cal.) (\$4.77 million settlement), *Plymouth County Contributory Ret. Sys. v. Hassan*, No. 08-1022 (D.N.J.) (corporate governance reform), and *In re HQ Sustainable Maritime Industries, Inc., Derivative Litigation*, Case No. 11-2-16742-9 (King County, Washington) (\$2.75 million settlement).

Mr. Jasnoch is also involved in the firm's healthcare practice group, currently representing institutional investors in *In re DaVita Healthcare Partners, Inc. Derivative Litigation*, Case No. 12-cv-2074 (D. Co.) and *City of Omaha Police and Fire Pension Fund v. LHC Group*, Case No. 12-cv-1609 (W.D. La.).

As an active member of the Consumer Attorneys of California, Mr. Jasnoch has prepared and submitted successful *amicus curie* briefs to the Ninth Circuit Court of Appeals, including on California's Anti-SLAPP law and consumer protection issues.

Mr. Jasnoch graduated *cum laude* from Creighton University with a Bachelor of Arts in Political Science in 2007. He received his Juris Doctorate from The University of Nebraska College of Law in 2011 and is a member of the California Bar.

**MICHAEL G. BURNETT** is a graduate of Creighton University (B.A., 1981) and Creighton University School of Law (J.D., 1984). Mr. Burnett practices complex securities litigation at the firm where he consults with the firm's institutional clients on corporate fraud in the securities markets as well as corporate governance issues. In addition to his work with the firm, Mr. Burnett has specialized in intellectual property and related law. Mr. Burnett is admitted to the Nebraska Supreme Court and United States District Court, District of Nebraska. He is a member of the Nebraska Bar Association.

**J. ALEX VARGAS** serves as Scott+Scott's Director of Investigations. He has devoted over a decade of his career investigating claims on behalf of institutional investors and other stakeholders. At Scott+Scott, Mr. Vargas conducts and oversees investigations across all practice groups. Prior to joining the firm, Mr. Vargas was involved in several high-profile securities fraud cases, including one where he served as the principal investigator in connection with a 14-year litigation, resulting in the largest securities fraud settlement following a trial; a record \$1.575 billion recovery in *Jaffe v. Household Int'l, Inc.*, No. 02-C-05893 (N.D. Ill.).

Representative securities fraud matters include: *Ret. Bd. of the Policemen's Annuity and Benefit Fund of Chicago v. FXCM Inc.*, 1:15-cv-03599-KMW (S.D.N.Y.); *Union Asset Management Holding AG v. SanDisk LLC*, 3:15-cv-01455-VC (N.D. Cal.); *In re LendingClub Corp. Shareholder Litig.*, Case No. CIV537300 (Cal. Super. Ct., San Mateo County); *In re MobileIron, Inc. S'holder Litig.*, 1-15-cv-284001 (Cal. Super. Ct., Santa Clara County); *In re Endochoice Holdings, Inc. Sec. Litig.*, C.A. No. 2016 cv 277772 (Ga. Super. Ct. Fulton County); and *Rubenstein v. Oilsands Quest Inc.*, No. 11-cv-288 (S.D.N.Y.) (settlement of \$10.235 million).

Representative consumer class actions include *In re Pacific Coast Oil Trust Sec. Lit.*, BC550418 (Cal. Sup. Ct., Los Angeles County); *Greater Chautauqua Federal Credit Union v. Kmart Corp.*, No. 15-cv-2228 (N.D. Ill.); *WinSouth Credit Union v. MAPCO Express, Inc.*, No. 14-cv-1573 (M.D. Tenn.); *Selco Community Credit Union v. Noodles & Co.*, C.A. No. 1:16-cv-2247 (D. Colo.); *Le v. Kohl's Corp.*, C.A. No. 15-1171 (E.D. Wisc.); and *First Choice Fed. Credit Union v. The Wendy's Co.*, 2:16-cv-00506 (W.D. Pa.).

Mr. Vargas graduated from the University of San Diego (B.A., 1997) and the University of San Diego School of Law (J.D., 2004). He is admitted to practice in New York, California, and the District of Columbia.

**STEPHANIE HACKETT** is an associate in Scott+Scott's San Diego office. She primarily practices in the area of antitrust litigation on behalf of classes and individual plaintiffs.

Ms. Hackett has represented class plaintiffs in *Dahl v. Bain Capital Partners, LLC*, No. 1:07-cv-12388 (D. Mass.) (\$590.5 million settlement) and *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.*, No. 12-3824 (E.D. Pa.) (\$8 million settlement). She represented corporate opt-out clients in *In re Polychloroprene Rubber (CR) Antitrust Litigation*, MDL No. 1642 (D. Conn.); and *In re Plastics Additives (No. II) Antitrust Litigation*, MDL No. 1684 (E.D. Pa.).

Ms. Hackett's current cases include representing class plaintiffs in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07789 (S.D.N.Y.), an action challenging collusion regarding foreign exchange rates, and *Alaska Electrical Pension Fund v. Bank of America Corporation*, No. 1:14-cv-07126 (S.D.N.Y.), an action challenging collusion regarding the setting of the ISDAfix benchmark interest rate. Ms. Hackett also represents corporate opt-out clients in *In re: Aluminum Warehousing Antitrust Litigation*, MDL No. 2481 (S.D.N.Y.), a case challenging collusion regarding the spot metal price of physically-delivered aluminum.

As a part of her *pro bono* work, Ms. Hackett has worked with the San Diego Volunteer Lawyer Program, providing assistance to immigrant victims of domestic violence, and the ABA Immigration Justice Project, where she obtained a grant of asylum on behalf of her client.

Ms. Hackett is an active member of the American Bar Association's Antitrust Section and the San Diego La Raza Lawyers Association. She is also a contributing author to Market+Litigation, Scott+Scott's monthly newsletter.

Ms. Hackett is a graduate of the University of Iowa (B.S. Political Science, International Business Certificate, 2001) and of the University of Iowa College of Law (J.D., with distinction, 2005), where she was a recipient of the Willard L. Boyd Public Service Distinction award. While obtaining her law degree, Ms. Hackett worked as a judicial extern for the Honorable Celeste F. Bremer, United States District Court for the Southern District of Iowa. Ms. Hackett is admitted to practice in California.

In addition to her legal education, Ms. Hackett has engaged in accounting study and passed all four parts of the CPA exam. This background has proved particularly useful in cases involving the financial services industry.

**HAL CUNNINGHAM** is a graduate of Murray State (B.S. Biological Chemistry) and the University of San Diego School of Law. Prior to joining Scott+Scott, Mr. Cunningham was engaged in research and development in the chemical and pharmaceutical industries.

Mr. Cunningham's practice focuses on securities class action, shareholder derivative, and consumer litigation. While at Scott+Scott, Mr. Cunningham has worked on several cases that have achieved notable results, including *In re Washington Mutual Mortgage Backed Securities Litigation*, No. C09-0037 (W.D. Wash.) (securities settlement of \$26 million). Mr. Cunningham is also involved in the Firm's securities lead plaintiff motion practice, having briefed several successful lead plaintiff applications for the firm's institutional and individual clients.

Mr. Cunningham is a regular contributor to and editor of Scott+Scott's monthly newsletter, MARKET+LITIGATION.

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**YIFAN ("KATE") LV** is an associate in Scott+Scott's San Diego office. Her practice focuses on prosecuting antitrust actions with an emphasis on intercultural cartels.

Ms. Lv represents plaintiffs in *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y), challenging foreign-exchange market manipulation by many global financial institutions. Ms. Lv also represents and advises the Firm's Asian clients.

Ms. Lv graduated from Tianjin University of Commerce, Tianjin, China, with a Dual Bachelors in Law and Economics in 2008, from Peoples University of China, Beijing, China with a Master in Law in June 2010, and from William & Mary School of Law in 2014.

Ms. Lv is bilingual, speaking fluent Chinese and English.

Ms. Lv is a member of the California, New York, and China Bars.

**MICHELLE CONSTON** is an associate at Scott+Scott's New York office, focusing on antitrust litigation.

Prior to joining Scott+Scott, Ms. Conston represented institutional investors, hedge funds, and individual investors in complex class action litigation arising under the Commodity Exchange

Act, Sherman Act, RICO Act, and common law. She was heavily involved in litigating actions alleging the manipulation of the London Interbank Offered Rate (“LIBOR”) for several currencies by large financial institutions (*e.g.*, *Laydon v. Mizuho Bank, Ltd.*, No. 12-cv-3419 (S.D.N.Y.) and *Sullivan v. Barclays plc*, No. 13-cv-00281 (S.D.N.Y.)), as well as an action alleging manipulation of the daily London Silver Fixing by the Fixing Banks and several other financial institutions (*In re London Silver Fixing, Ltd., Antitrust Litigation*, No. 14-md-02573 (S.D.N.Y.)).

At Scott+Scott, Ms. Conston presently devotes much of her time representing investors in cases involving the manipulation of financial benchmarks by numerous major banks, including *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.) and *Alaska Elec. Pension Fund v. Bank of America Corp.*, No. 14-cv-7126 (S.D.N.Y.).

Ms. Conston is a graduate of Marist College (B.A., *magna cum laude*, 2010) and the University of Miami School of Law (J.D., *magna cum laude*, 2013). During law school, Ms. Conston served as a judicial intern for the Honorable Stephen T. Brown, the Chief Magistrate Judge of the United States District Court for the Southern District of Florida. Ms. Conston also served as a certified legal intern for the United States Attorney’s Office for the Southern District of Florida.

Ms. Conston is licensed to practice law in New York, New Jersey, and Florida (inactive), and is admitted to the U.S. District Court for the Southern District of New York.

**KASSANDRA NELSON** is an associate in the firm’s New York office where she focuses on securities and antitrust litigation.

Ms. Nelson is a graduate of the University of Alabama (B.A., *cum laude* 2012) and Southern Methodist University (J.D., 2016). During law school, Ms. Nelson volunteered over 450+ hours in Legal Public Service and received the distinction of Pro Bono Honor Roll upon graduation. She worked as an intern for the Domestic Violence Division at the Dallas County District Attorney’s Office as well as an extern for the Honorable Judge Martin Hoffman. Ms. Nelson served as a student attorney for SMU’s Innocence Clinic, working with the Dallas County Public Defender’s Office and New York Innocence Project, and successfully advocated for the release and exoneration of Steven Chaney, freed after wrongfully serving more than 25 years.

Ms. Nelson is admitted to practice in the State of Texas.

**G. DUSTIN FOSTER**’s main practice areas include antitrust, securities, and complex litigation, which includes such cases as *In Re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (S.D.N.Y.), *Dahl v. Bain Capital Partners, LLC*, No. 1:07-cv-12388 (D. Mass.), and *Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Ltd. Co.*, No. 2:12-cv-03824 (E.D. Pa.). Mr. Foster is a member of the West Virginia State Bar.

Mr. Foster is a graduate of West Virginia Wesleyan College (B.S., Biology, *cum laude*, 1999) and of the West Virginia University College of Law (J.D., 2002), where he earned a position on the Moot Court Board and Lugar Trial Association. During law school, Mr. Foster served as a law clerk for the West Virginia Supreme Court of Appeals, after which he assumed a full-time



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Prior to joining Scott+Scott, Peter practiced insurance defense with two small San Diego firms, focusing on defending contractors and design professionals in professional liability and breach of contract matters. Peter has also worked as a financial advisor and as an insurance fraud investigator.

Peter is admitted to practice in the State of California, as well as the U.S. District Courts for Southern and Central California.

**CARLY HENEK** is an attorney in Scott+Scott's California office where she focuses on complex antitrust litigation and class actions.

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Carly has extensive state and federal court experience litigating against and representing major U.S. and international corporations and individual clients in all phases of the litigation process. Her practice focuses on complex commercial litigation and securities fraud litigation.

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Ms. Sankey received her B.A. from the University of California, Santa Barbara, in Sociology and Black Studies, and graduated from the University of San Francisco, School of Law in 2012.

She holds a Public Interest Law Certificate with Honors and is also the first recipient of the Molla/Ndubaku Humanitarian Award from UCSB.

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